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HOW TO USE THIS CODE

- (A) **Read the Ordinance.** To gain an understanding of the Town of Farmington Zoning Ordinance and related regulations, it is important to read them. Within this document, Chapter IV, entitled “Farmington Zoning Ordinance,” statements of purpose are included for the Zoning Ordinance as a whole and for many of the subsections. This will help readers understand what the Ordinance is trying to accomplish.
- (B) **By-laws, Zoning Ordinance & Related Regulations.** To fully understand this code, it is important for the reader to understand how the Town has organized this ordinance and its supporting Regulations.

- (1) **Land Use Booklet.** The Town has organized its land use ordinances and regulations into a single system:

| | |
|--------------|-------------------------------------|
| Chapter I: | Planning Board Bylaws |
| Chapter II: | Conservation Commission Bylaws |
| Chapter III: | Zoning Board of Adjustment Bylaws |
| Chapter IV: | Town of Farmington Zoning Ordinance |
| Chapter V: | Subdivision Regulations |
| Chapter VI: | Site Plan Review Regulations |
| Chapter VII: | Excavation Regulations |

- (2) **Organization of the Ordinance.**

- (a) **Sections.** This document, Chapter IV, entitled “Town of Farmington Zoning Ordinance,” is divided into seven Sections. Each Section is a grouping of related issues or requirements. Readers can easily identify where an answer is likely to be found. Information about setbacks is found in Section 2.00 (Base Zoning Districts & Dimensional Requirements); information about other concerns like wetlands protection or floodplains is located in Section 4.00 (Overlay Zoning Districts).

- (b) **Sub-sections.** Each Section is divided into sub-sections, each of which may be further divided as needed. It is easiest to use the **Table of Contents** to locate the first order of subsections.

- (3) **Cross-referencing System.** Within this Ordinance there are many references to other Sections of this code. These cross-references are provided to help the reader find needed information, and to inform the reader of related provisions. For example:

§1.01(A) is located on page three of this Ordinance. It is entitled “Purpose.” The symbol “§” stands for “section.” The information following the “§” starts with the Section, then continues to subsections in descending order. Additional levels of hierarchy would be shown as follows:

§1.04(A)(3)(a), located on page 4 of this Ordinance reads:

“The lot on which the use exists must conform with all dimensional requirements of the Zoning Ordinance in existence at the time of application for the Special Use Permit;”

The reader should note that only the first letter is capitalized, and that the rounded parentheses are

used before the square parentheses. Also, the text of each level of hierarchy is indented further than the previous level.

**END OF SECTION
“HOW TO USE THIS CODE”**

SECTION 1.00 ADMINISTRATIVE PROVISIONS.

1.01 PURPOSE

(A) **Purpose.** The purpose of this Zoning Ordinance, which shall be entitled "Town of Farmington Zoning Ordinance," (hereafter, "Ordinance") is to provide for the health, safety and general welfare of the inhabitants; to preserve the rural quality of the Town and the character of the downtown; to enhance and preserve the value and beauty of natural features of the environment; to conserve the value of buildings and encourage the most appropriate use of land; to promote planned and fiscally responsible provision of facilities, utilities and services and furthermore to carry out the purposes set forth in RSA 674:17. It is the intent of this Ordinance to allow landowners as great a degree of freedom in the use and enjoyment of their land as is consistent with the accomplishment of these purposes and the policies set forth in the Town of Farmington Master Plan.

1.02 AUTHORITY.

(A) **Authority.** Authority to adopt the Ordinance is granted by the State to the Local Legislative Body by RSA 674:16, with the condition set forth in RSA 674:18, that requires the Planning Board to adopt the objectives and land use sections of the Master Plan prior to adoption of the Ordinance.

(B) **Resolution.** Pursuant to the grant of authority, and finding that the Planning Board adopted objectives and a land use section of the Farmington Master Plan on January 27, 1998, the Local Legislative Body of the Town of Farmington hereby repeals the previous Zoning Ordinance and adopts this new Ordinance, as proposed by the Planning Board.

1.03 **ZONING MAPS.** There shall be a Zoning Map for the Town of Farmington, which sets forth the base zoning district boundaries. The Zoning Map shall be available for public inspection at the Farmington Town Offices in the Planning & Code Enforcement Office. This map, in conjunction with the physical descriptions of the boundaries contained herein shall be used for all interpretations of base zoning district boundaries.

1.04 **NON-CONFORMITY.** This section specifies those rights to which non-conforming uses, structures and lots are entitled.

(A) **Non-conforming Use.** The following control non-conforming uses:

(1) Any non-conforming use lawfully in existence at the time of adoption of this Ordinance may continue indefinitely. In the event that such use is discontinued for twenty-four (24) consecutive months, its re-establishment shall not be permitted.

(2) Certain districts prohibit single-family residential use. To prevent this Ordinance from being unduly burdensome, such single family houses shall be permitted to be physically expanded, and accessory structures added or expanded and all uses that are permitted or permitted with review, special exception, or special use are allowed subject to the same regulations and review criteria indicated elsewhere in this ordinance, with the exception that there shall be no increase in the number of residential units on the lot.

(3) Certain districts prohibit specific business/civic uses (see definition of business/civic). To prevent this ordinance from being unduly burdensome, the Planning Board may grant a Special Use Permit for the expansion of these uses under the following conditions:

- (a) The lot on which the use exists must conform to all dimensional requirements of this Ordinance at the time of application for the Special Use Permit;
- (b) All expansions of these non-conforming uses shall require site plan review, regardless of the size of the expansion.

(B) **Non-conforming Structure.** The following control non-conforming structures:

(1) It is the intent of this ordinance for all expansions to be conforming, if possible or practical. If it is determined by the ZBA that the intended purpose of the proposed expansion cannot be achieved in a conforming manner, the ZBA may grant a special exception if the following conditions are met:

- (a) the expanded structure is no closer to the lot line than the existing structure.
- (b) the expansion is not in the 100-year floodplain.
- (c) sanitary sewage disposal and water supply are provided if needed.
- (d) the expansion does not adversely affect abutting properties, public health, safety or general welfare.

(2) Portions of structures within a setback may be enclosed or expanded upwards if granted a Special Exception by the ZBA. The ZBA shall grant the Special Exception only if the following conditions are met:

- (a) If an upward expansion, it shall not have any adverse impact on any neighboring property, including but not limited to blocking of views and/or sunlight.
- (b) If an upward expansion, it shall not exceed the maximum height limitations specified in this Ordinance.
- (c) No part of the structure is located within the 100-year floodplain.

(C) **Non-conforming Lot.** The following control non-conforming lots:

- (1) Existing lots of record are exempt from dimensional requirements. Setback requirements must be met and the lot must have a minimum of 50' frontage on a street giving access.
- (2) No action shall be permitted to change the boundary of a nonconforming lot unless the lot remains unchanged in total area or it brings the lot closer to conformance with this Ordinance and it makes no other aspect of the lot and/or all structures thereon more non-conforming.
- (3) In the case of abutting, dimensionally nonconforming lots, the ZBA may grant a special exception to allow a boundary adjustment if the following conditions are met:
 - (a) Any boundary adjustment does not render a lot that is presently able to be built upon unbuildable, including but not limited to considerations such as septic design, separation between subsurface disposal system components and water sources, etc.

(b) A boundary line adjustment does not have an adverse impact on the public safety, health, or welfare. [all of 1.04(C)(2) added 09-13-00]

- 1.05 **COMPLIANCE WITH OTHER CODES.** As specified in RSA 676:14, whenever the requirements of this Ordinance differ from the requirements of another existing local code, the provision that imposes the greater restriction or higher standard shall be the controlling provision. This same principal shall also apply where local codes differ from State or Federal codes.
- 1.06 **SAVING CLAUSE.** If a court of competent jurisdiction finds any portion of this Ordinance invalid, this finding shall not invalidate the remainder of this Ordinance.
- 1.07 **INTERPRETATION, ADMINISTRATION AND ENFORCEMENT.** The Code Enforcement Officer shall have sole authority to interpret, administer and enforce this Ordinance. The Code Enforcement Officer shall have at her or his disposal all legally available means to fulfill these responsibilities. Decisions of the Code Enforcement Officer may be appealed to the Zoning Board of Adjustment.
- 1.08 **ZONING PERMITS.** Zoning permits shall be obtained prior to the establishment of any new use other than those permitted by right in this Ordinance. The Code Enforcement Officer shall determine, based upon the provisions of this Ordinance, whether a proposed use may be established within a given zoning district. Any decisions under this provision are subject to administrative appeal to the Zoning Board of Adjustment.
- 1.09 **INNOVATIVE LAND USE CONTROLS.** Pursuant to RSA 674:21, a provision which permits innovative land use controls, the Town offers authority to the Planning Board in the case of RSA 674:21(b), Phased Development, RSA 674:21(d), Transfer of Development Rights, RSA 674:21(f), Cluster Development and RSA 674:21(m), Impact Fees to be applied in accordance with the Performance Standards within this Ordinance pertaining to each innovative land use control technique.
- (A) Special Use Permits.** Special Use Permits (SUP) are required for certain uses.
- (1) **Process.** The Planning Board shall process requests for Special Use Permits(SUP) using the procedures of the Subdivision Regulations, and in accordance with RSA 676:4. The Board shall grant the Special Use Permit only upon finding that the proposal is consistent with the purposes of this Ordinance. General and use-specific Special Use Permit criteria shall be applied to all SUP requests. The Board shall review the general purpose of the Ordinance as well as the purposes of all applicable specific sections of the Ordinance in making its decision.
- 1.10 **ZONING BOARD OF ADJUSTMENT.** This Ordinance provides for the establishment of the Zoning Board of Adjustment (ZBA) as required per RSA 673:1,IV. With respect to this Ordinance, the ZBA shall review and decide on appeals from administrative decisions, applications for the Special Exceptions, applications for Variances, and applications for Equitable Waivers of Dimensional Requirements in accordance with RSA 647:33(a).
- 1.11 **BUILDING CODE BOARD OF APPEALS.** The Zoning Board of Adjustment shall also serve as the Building Code Board of Appeals as permitted under RSA 673.1.V.
- 1.12 **DEFINITIONS.** As used in this Ordinance, the following terms shall have the meanings indicated:

Accessory. A structure or use subordinate and customarily incidental to a primary structure or use on the same lot.

Accessory Apartment. A self-contained residential unit, complete with its own kitchen and bathroom, incorporated within an existing single family residential structure, which is subordinate to the primary residence and is either a studio apartment or a one bedroom apartment.

Acre. An acre is equivalent to 43,560 square feet of land area.

Agriculture. The production, keeping, or maintenance for sale, lease, or personal use of plants and/or animals useful to humans, including but not limited to: forages and sod crops, grains and seed crops, livestock, bees and apiary products, fruits of all kinds, nuts, berries, and/or flowers.

Animal Husbandry. The commercial breeding and raising of livestock including the keeping of horses and similar animals.

Automotive Repair. A building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted. The dispensing of fluids, including fuels, oil, and antifreeze shall be included in this use.

Aquifer. Aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of ground water usable for municipal or private water supplies.

Aquifer Protection Zone. The primary recharge areas of designated aquifers. The Aquifer Protection Zone is shown on an overlay to the official zoning map of the town.

Basal Area. The cross sectional area of a tree measured at a height of 4 1/2 feet above the ground, usually expressed in square feet or square footage per acre for a stand of trees.

Bed & Breakfast. A use in which an occupied single family residence also offers for public hire up to three rooms for overnight accommodation, and offers meals prepared in the kitchen of the residence. This use shall be subordinate to the residential use of the structure and lot.

Best Management Practice, Wetlands. Applying the appropriate techniques to minimize disturbances and impact to the wetland resulting from those activities that will alter the natural character of the wetland.

Board. The Planning Board.

Business/Civic. For the purposes of the Ordinance only, this shall mean all uses except: Single Family Residential, including manufactured housing; Single Family Residential, excluding manufactured housing; Duplex Residential; and Multi-Family Residential.

Campground. A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

Certified Soil Scientist. An individual duly qualified in soil classification and mapping, certified by the New Hampshire Board of Natural Scientists under the provisions of **RSA 310-A:775 et seq.**

Child Day Care. The care and supervision of a child (any person under 18 years of age) away from the child's home and apart from the child's parents. (Also see: definitions for "Child Day Care, Family" and "Child Day Care, Family Group"; and RSA 170-

E:2.)

Child Day Care, Family. A use equivalent to the State definition of "family day care home." This is a use in an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to 6 children from one or more unrelated families. The 6 children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the 6 children, up to 3 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

Child Day Care, Family Group. A use equivalent to the State definition of "family group day care home." This is a use in an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

Civic Use. Land areas and/or structures, publicly or privately owned, which are intended for the use, enjoyment and benefit of the community. Examples include, but are not limited to, the Town Offices, the Post Office, the Community Center, and churches.

Commercial Amusement. An establishment engaged in providing amusement or entertainment for a fee or admission charge, and in which the patron is engaged on the premises as an active participant rather than a spectator.

Commercial Excavation. A land area that is used, or has been used, for the commercial taking of earth, including all slopes. (See also RSA 155-E:1)

Commission. Conservation Commission of the Town of Farmington.

Conference Center. A facility used for conferences and seminars, which may include accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms.

Country Club. Land and structures customarily associated with a golf course, comprising a club house, recreational facilities, and other accessory uses, and open to members and their guests or open to the public.

Cultural Use - Establishments that document the social and religious structures and intellectual and artistic manifestations that characterize a society and include museums, art galleries, and botanical and zoological gardens of a natural, historic, educational, or cultural interest.

Dog Kennel. Keeping of dogs for commercial breeding or boarding.

Education Facility. A building or part thereof, which is designed, constructed, or used for education or instruction in any branch of knowledge. The facility may be publicly or privately owned.

Essential Services. The following facilities, provided they serve primarily the Town of Farmington or a neighborhood or structure within the Town of Farmington: steam, fuel, gas, communication, transportation, electric power or water transmission or distribution lines and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; sewage lines, collection or supply systems; and associated storage tanks. Such systems may include poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar

accessories, but shall not include pumping stations or transmitter towers or buildings which are necessary for the furnishing of such services. Essential services shall not be subject to the space and bulk standards of this ordinance.

FAA. An acronym meaning Federal Aviation Administration.

FCC. An acronym meaning Federal Communications Commission.

Forestry. Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, and/or performance of forest services.

Frontage. That portion of the property boundary shared with a street as defined in this ordinance.

Golf Course. A tract of land laid out for at least nine holes for playing the game of golf and improved with trees, greens, fairways, and/or hazards. This shall not include miniature golf or other such commercial amusements.

Ground Water Recharge Area. That area from which water is added to the saturated zone by: Natural processes such as infiltration or precipitation or by artificial processes such as induced infiltration.

Hazardous or Toxic Materials and Waste. Waste material which may pose a present or potential hazard to human health or the environment when improperly stored, transported or disposed of or otherwise managed including without exception hazardous waste identified and listed in accordance with Section 30001 of the Resource Conservation and Recovery Act of 1976.

Examples of Hazardous Waste include:

Toxic (poisonous) wastes

Flammable wastes (paint, varnishes, removers, solvents, and oils)

Reactive wastes

Corrosive wastes (acids)

Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment

Health Service Facility. An out-patient establishment furnishing medical services to humans, including the offices of physicians, dentists, and other health practitioners, clinics, medical laboratories, outpatient surgery, and blood banks.

Height - Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure or appurtenance, even if said highest point is an antenna or other appurtenance.

Home Business. A business which is operated by a member of a family occupying a single family detached dwelling, which business use is accessory to the residential use and which does not alter the residential character of the buildings or grounds.

Home Occupation – An occupation conducted in a dwelling unit, provided that:

- No person other than a member of the family residing on the premises shall be engaged in such occupation; and
- The use of the premises for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants; and
- There shall be no change in the outside appearance of the building or premises, or any visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding six (6)

- square feet in area, non-illuminated and mounted flat against the wall of the residence; and
- No traffic shall be generated by such home occupations in greater volumes than would be expected in the neighborhood (average trips [one trip is the arrival and departure of a vehicle to conduct business] generated per day over the period of six days attributable to said home occupation cannot exceed eighteen), and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard; and
- No equipment or process shall be used in such home occupations that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the home occupation is conducted in a detached one-family dwelling, or outside the dwelling unit if conducted in any other form of dwelling. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television receiver off the premises or causes fluctuations in line voltage of the premises; and
- The following are specifically excluded as home occupations: convalescent or nursing homes, tourist home, animal hospital, restaurants, doctors' and dentists' offices, small engine repair, and automotive tune-up. *If an applicant wishes to engage in any of the uses delineated in this paragraph and the use is allowed in the Table of Permitted Uses by special exception (SE) or permitted with review (PR), then the applicant may apply in the Planning Office for the appropriate level of review.*

Hotel/Motel. Any building containing six or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

Housing, Age-restricted (elderly). Housing designed for and rented, leased or sold specifically to the elderly, specifically housing that qualifies as elderly housing under the Federal Fair Housing Act.

Indoor recreation. An establishment that provides facilities for aerobic and anaerobic exercise, swimming, playing courts, shooting ranges, or similar indoor activities and facilities.

Local Legislative Body. Town Meeting Body.

Lot. A lot is a parcel of land delineated by boundary lines.

Lounge. An establishment where alcoholic drinks may be purchased for on-site consumption. This may include brewpubs, which brew beer and other such beverages for sale and consumption on-site only.

Manufactured Housing. Any structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. This shall not include pre-site built housing as defined in RSA 674:31-a.

Manufacturing. An establishment engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins or liquors, but which does not fit the definition of Light Manufacturing.

Manufacturing, Light. The fabrication, processing, finishing, assembly, packing or treatment of articles or merchandise conducted solely within a totally enclosed structure, and operated in a manner which is not offensive, noxious, detrimental or

dangerous to surrounding areas by reason of dust, smoke, fumes, odor, noise, light, or other adverse environmental effect.

Medical Care Facility. A structure, not exceeding 7,500 square feet in gross floor area, that houses health services providers.

Motor Vehicle Repair Facilities. This use includes those operations which provide services to motor vehicles involving body work, painting, engine rebuilding, or structural repairs or alterations.

Motor Vehicle Sales and Service. The use of any building or land area for the display and sale of more than one new or used motor vehicle, including automobiles, trucks, vans, trailers, recreation vehicles, motorcycles, or similar motorized vehicles, and which may include repair facilities for such vehicles.

Motor Vehicle Service Facility. This use includes those operations which provide service, maintenance, and minor repairs for motor vehicle, including the accessory sale of gasoline, parts, and supplies. This use shall include service stations, muffler, transmission, and brake shops, car washes, tune-up centers, and similar uses, but shall not include operations involving body work, painting, engine rebuilding, or structural repairs or alterations.

Non-Conforming Lot. A lot that does not comply with the dimensional requirements of this Ordinance.

Non-conforming, More. Any increase in degree or extension of that characteristic of a nonconforming lot, structure or use that causes the nonconformity or any increase in that nonconformity. [08/21/00].

Non-conforming Structure. That portion of a structure which does not comply with the requirements of this Ordinance.

Non-conforming Use. A use that is not permitted in the base zoning district or overlay district in which it is located.

Nursing Home. An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for twenty four or more consecutive hours to two or more patients who are not related to the governing body by marriage, blood, or adoption. Generally, these are homes for the infirm elderly.

Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, computers, and communications equipment. This may include areas for customers to be served, such as the lobby at a bank.

Outdoor Recreational Facility. A facility that is the primary use of a property and is designed for outdoor recreational activities, but specifically excluding race tracks for motorized vehicles. Examples of outdoor recreational facilities include, but are not limited to; playing fields, tennis courts, running tracks, playgrounds, and swimming pools.

Out-of-Home Adult Day Care. A use similar to child day care, but provided for adults in need of assistance. The care and supervision of an adult (any person 18 years of age or older) in need of assistance while away from that person's home and apart from the person's care givers.

Place of Assembly. A facility which accommodates a gathering of people who are jointly engaged in a singular activity. This shall include, but not be limited to, a church, meeting hall, gymnasium, sports stadium, and auditorium. The facility may be publicly or privately owned.

Pollution. Harmful thermal effect or the contamination, or rendering unclean or impure of any wetland of the Town of Farmington by reason of any waste or other materials discharged or deposited therein. This includes but is not limited to, erosion resulting from any filling or excavation activity.

Pre-site Built Housing. Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this subdivision, pre-site built housing shall not include manufactured housing, as defined herein and in RSA 674:31.

Public Utility. A private organization subject to governmental regulation that provides an essential service or commodity, such as water, electricity, transportation, or communication to the public, and which are intended to serve primarily populations or activities outside of the Town of Farmington. This term also includes buildings and pumping stations, which are necessary for the furnishing of essential services as defined in this Ordinance, whether local or greater in scope.

Research and Development. An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering or product development.

Residence, Duplex. A single structure containing two residential units, neither of which is an accessory apartment.

Residence, Multi-Family. A single structure containing three or more residential units, none of which is an accessory apartment.

Residence, Single Family. A detached structure containing one residential unit, with or without permitted accessory apartments.

Residential Home-Care Facility. Group residence occupied by people in need of assistance in their daily lives. Such facilities are designed and operated to house people with similar or common needs, such as a facility for frail elderly people, or people recovering from head injuries. Professional supervision and some services such as health monitoring, recreational activities, and transportation may be an integral component of the use.

Residential Unit. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single household or family.

Restaurant. An establishment where food and drink are prepared, served and either consumed on site or taken out to consume elsewhere.

Retail. Establishments engaged in the sale of goods or merchandise to the general public for personal or household consumption, which may render services incidental to the sale of such goods or merchandise. This shall not include yard sales and other such activities which are incidental to a residential use, unless such incidental activities exceed seven days per year.

Retail, Small-scale. An establishment engaged in retail not exceeding three thousand (3,000) square feet of net floor area used for the display of goods and merchandise and for which off-street parking space requirements are fewer than twenty spaces. This shall not include yard sales and other such activities that are incidental to a residential use, unless such incidental activities exceed seven days per year.

Self-Service Storage Facility. A structure containing storage spaces of varying sizes leased or rented on individual leases for varying periods of time and specifically for dead storage only, excluding the storage of hazardous or flammable chemicals and explosives.

Service (or Service Use). A commercial use which primarily provides services to people or businesses. There may be

incidental retail or office activity, but the primary commercial activity is service. Examples include, but are not limited to, beauty salons and barber shops.

Setback. The horizontal distance between a structure and the lot boundaries, measured at right angles or radial to the lot boundary.

Sign. Any display of lettering, logos, colors, lights, or illumination visible from the property lines, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises. For purposes of this Ordinance, "sign" shall exclude: merchandise display; federal, state, county or municipal property of any sort; necessary highway traffic control or parking control devices on public or private rights-of-way; and municipally assigned structure numbers.

Sign, Freestanding. A self-supporting sign not attached to any building, wall or fence, but in a fixed location. This does not include movable signs.

Sign Height. The measure from undisturbed ground directly under the sign to the top of the message area.

Sign Message Area. The total area used to display a sign's message including all lettering, designs, symbols, logos, together with but not including the support framework, bracing and base, provided that these features remain incidental to the sign itself. Where the message area consists of letters, symbols, logos or devices affixed to the surface of a structure, wall, awning or window, the message area shall be measured by a single, continuous, rectangular perimeter drawn to enclose the extreme limits of the sign elements. The area of one side of a double-faced sign shall be used to calculate the total message area of the sign, provided that each of the double faces is parallel to, and attached directly to the other.

Sign, Movable. A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

Sign, Neon. Used in the colloquial sense, to indicate the type of sign generally made with shaped glass tubes filled with gas (typically a noble gas such as neon or argon) which radiate colored light when an electric current is added. For purposes of this Ordinance, a neon sign is not considered an internally illuminated sign but is defined separately.

Sign, Off-Site. A sign which is not located on the lot to which its message refers.

Sign, Off-Site Commercial. A sign with a commercial message relating to a commercial activity not conducted on the lot on which the sign is located.

Sign, Projecting. A sign which is affixed to the wall of a building and which extends more than 12 inches beyond the surface to which it is affixed.

Sign, Wall. A sign affixed to the wall of a building or to an awning, provided the sign does not extend more than 12 inches beyond the surface to which it is attached.

Sign, Window. A window, or portion thereof, on which sign message is displayed, whether by permanent or temporary attachment, but exclusive of merchandise display.

Special Exception. A process by which the Zoning Board of Adjustment alters the standard provisions of this Ordinance in a manner specified in this Ordinance, and only when conditions specified in this Ordinance apply.

Special Use Permit, Wetlands. A permit for a use not otherwise permitted in the Wetlands Conservation Overlay District which may be granted by the Planning Board (as authorized by **RSA 674:21 II**) provided it meets the criteria set forth in **Section**

4.03(H).

Street. The following meet the definition of a street:

- A Class I or II highway established by the State of New Hampshire
- A Class V highway maintained by the Town of Farmington
- A way shown on a plan of a subdivision duly approved by the Planning Board
- A private way approved by the Planning Board in accordance with the provisions of Section 3.10.

Street Frontage. The distance between the sidelines of a lot as measured along the front lot line of the street right-of-way limits.

Structure. Anything constructed or erected, on or in the ground, or an attachment to something having a fixed location on the ground, including: permanent or temporary buildings; carports; porches; and other building features including stacks and antennas. This definition shall not include sidewalks, fences, driveways, septic systems, utility poles or lines, boundary markers, flag poles, or retaining walls.

Structure Height. The vertical distance from the lowest point of finish grade at the base of the structure to the highest point of the structure, but excluding chimneys, lightning rods and other such appurtenances.

Studio. The workshop of an artist, sculptor, photographer, or craftsperson.

Timber Harvesting. The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and haul roads.

Uniform Setback Relationship. The condition in which the two (2) lots on either side of the subject lot front on the same street and where the front setback of each of the four (4) lots does not vary from the average of all four (4) front setbacks by more than five (5) feet.

Upland. Land not containing any wetland areas.

Warehouse. A structure or space used primarily for the storage of goods and materials.

Water Bodies. Any surface water body naturally occurring or man-made that is over five (5) acres in size or streams that flow twelve (12) months in the average year.

Wetlands. An area which possesses three essential characteristics: (1) hydrophytic vegetation - macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content; (2) hydric soils - soils saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil strata and (3) wetland hydrology - permanent or periodic inundation or soil saturation to the surface, at least seasonally during an average rainfall year, and are further defined by the Wetlands Research Program Technical Report Y-87-1 dated January of 1987 and prepared by the Army Corps of Engineers.

Wetland Scientist. An individual duly qualified by education and/or experience to identify, classify and delineate wetlands.

Wholesale. Selling merchandise: to retailers; to industrial, commercial, institutional or professional business users; or to other wholesalers.

1.13 **SITE PLAN REVIEW AUTHORITY.** The Planning Board, in accordance with RSA 674:43, is empowered to review and approve or disapprove site plans for the development or change or expansion of use of tracts for non-residential

uses or for multi-family dwelling units, whether or not such development includes subdivision or re-subdivision of the site.

(A) It shall be the duty of the Town Clerk to file with the Strafford County Registry of Deeds a certificate of notice showing that the Planning Board has been so authorized, and giving the date of such authorization.

(B) The Planning Board is authorized to create a Site Plan Review Committee comprised of local officials, to approve or disapprove minor site reviews, with decisions of this committee subject to appeal to the Planning Board; and to assist the Planning Board with major site reviews.

1.14 **LOTS SPLIT BY ZONING DISTRICT BOUNDARIES.** Where an existing lot of record falls into more than one zoning district, the following shall apply:

(A) For lots that meet the subdivision criteria, the provisions of each district shall apply to each portion of the lot.

(B) For lots that cannot be subdivided, the provisions of the district where the greatest street frontage exists, shall apply to the entire lot.

1.15 **FEES.** Fees for permits required under this Ordinance shall be set from time to time by the Farmington Board of Selectmen. A recommended fee schedule shall be developed and forwarded to the Selectmen by the Planning Board.

1.16 **AMENDMENTS.** This ordinance may be amended only by vote of the legislative body of the Town of Farmington in accordance with the provisions of RSA 672, RSA 674, and as otherwise provided by law.

SECTION 2.00 BASE ZONING DISTRICTS.

For purposes of regulating the use of land and the location and construction of buildings, and in accordance with RSA 674:20, the Town of Farmington shall be divided into the following districts:

- | | |
|--|---|
| 2.01 Agricultural Residential District (AR) | 2.05 Village Center District (VC) |
| 2.02 Suburban Residential - (SR) | 2.06 Commercial Center District (CC) |
| 2.03 Suburban Residential – 1 Acre District (SR-1) | 2.07 Office-Research Business District (ORBD) |
| 2.04 Urban Residential District (UR) | 2.08 Industrial Business District (IB) |

The following shall be delineated in the Farmington Land Use Table regarding the base zoning districts:

- **Permitted Uses.** Within each zoning district, uses permitted by right shall be indicated in the Farmington Land Use Table as “P,” meaning permitted by right without review by the Planning Board or the Zoning Board of Adjustment.
- **Uses Permitted with Review.** Within each zoning district, uses permitted with review shall be indicated in the Farmington Land Use Table as “PR,” meaning permitted with site plan review and approval by the Planning Board. Site Plan Review shall be conducted as outlined in the Planning Board’s Site Plan Review Regulations and this Ordinance.
- **Uses Permitted by Special Exception.** Within each zoning district, uses permitted by special exception shall be indicated in the Farmington Land Use Table as “SE,” meaning permitted by special exception upon review and approval by the Zoning Board of Adjustment (once approval is gained by the ZBA, a use permitted by special exception then must undergo site plan review with the Planning Board in accordance with applicable Site Plan Review Regulations). The ZBA shall grant requests for Special Exceptions that are in harmony with the general purpose and intent of this Ordinance and which meet the general standards set forth below:

(A) **Special Exceptions shall meet all of the following standards:**

(1) standards as provided by this Ordinance for the particular use permitted by Special Exception. *If there are no other specific standards for a use delineated in the Table of Uses as SE, then items (2) through (6) of this Section shall apply.*

(2) no hazard shall be created to the public or adjacent property on account of potential fire explosion or release of toxic materials.

(3) no detriment to property values shall be created in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment or other materials.

(4) no traffic hazard or substantial increase in the level of traffic congestion shall be created.

(5) no excessive demand on municipal services, including but not limited to, water, sewer, waste disposal, police and fire protection and schools.

(6) no significant increase of storm water runoff onto adjacent property or streets shall be created.

(B) **Special Exceptions may be subject to appropriate conditions, including but not limited to:**

- front, side, rear yards in excess of the minimum requirements of this Ordinance.
- screening of the premises from the street or adjacent property.
- landscaping as contained in Appendix 1.
- modifications of the exterior features, buildings or other structures.
- limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of this Ordinance.
- limitation on the number of occupants and methods and times of operation.
- grading of the premises for proper drainage.
- regulation of design of access drives, sidewalks, crosswalks and other traffic features.
- off-street parking and loading spaces in excess of the minimum requirements of this Ordinance.
- regulation of the number, size, lighting of signs more stringent than the requirements of this Ordinance,
- other Performance Standards as may apply at the discretion of the ZBA.

Whenever the ZBA grants a special exception subject to conditions, the Planning Board shall not waive or modify such condition(s) without concurrence, by vote, of the ZBA.

(C) Before approval by the ZBA of any special exception, a public hearing shall be held with at least fifteen (15) days notice of the time and place of the public hearing, published in a newspaper of general circulation in the town and legal notice thereof shall be posted in at least three public places in the town. All abutters shall be notified by the ZBA by certified mail at least one week prior to any public hearing regarding said site. The names and addresses of the abutters shall be supplied by the applicant on a plot plan to be submitted to the ZBA.

- **Prohibited Uses.** Any use not listed within each respective zoning district as a permitted use, a use permitted with review, or a use permitted by special exception shall be prohibited in the zoning district(s) in which it is not listed.

2.01 AGRICULTURAL RESIDENTIAL (AR)

(A) **Purpose.** The purpose of the Agricultural Residential District is to provide areas in the Town of Farmington that foster a “working rural” environment and preserve the potential for farming and farmland soils. Other permitted uses shall not impede, restrict, prohibit, or render impractical the practice of permitted agricultural activities.

(B) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved and all land within the Agricultural Residential District (AR) District shall be used in accordance with Table 2.01(B):

Table 2.01(B) - Space and Bulk Standards – Agricultural Residential District

| | |
|--|---|
| Maximum Net Residential Density | 1 dwelling unit per 3 acres |
| Minimum Lot Size | 3 acres |
| Minimum Lot Area per Dwelling Unit | 3 acres |
| Minimum Street Frontage | 250 feet |
| Minimum Front Setback | 50 feet |
| Minimum Side Setback (principal and Accessory Buildings) <ul style="list-style-type: none">- Principal Residential Buildings- Accessory Buildings or Structures- Non-residential Buildings or Structures, including Agricultural Buildings | <ul style="list-style-type: none">15 feet15 feetOne (1) foot for each foot of height, but not less than 15 feet |
| Maximum Height <ul style="list-style-type: none">- Residential buildings- non-residential buildings and structures- telecommunications towers- wind generators | <ul style="list-style-type: none">35 feet55 feet(see Section 3.14)None |

(C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the AR District meet the following criteria:

- The proposed use is consistent in character with other uses allowed within the AR District and listed in Section 2.09 (Table of Permitted Land Uses) as P or PR and is consistent with the purpose of said district.

(D) **Wetlands and Impact on Minimum Lot Size Calculation.** A lot upon which residential development is to occur that does not have access to municipal water or wastewater must contain a minimum of 40,000 square feet of contiguous uplands.

2.02 SUBURBAN RESIDENTIAL DISTRICT (SR)

(A) **Purpose.** The purpose of the Suburban Residential District is to provide areas in the Town of Farmington for high quality, residential development containing medium overall density in areas where public water and sewer may be extended in a compact and cost-effective manner.

(B) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved and all land within the Suburban Residential District (SR) shall be used in accordance with Table 2.02(B).

Table 2.02(B) - Space and Bulk Standards – Suburban Residential District

| | |
|--|--------------------------|
| Maximum Net Residential Density | 1 dwelling unit per acre |
| Minimum Lot Size | 1 acre |
| Minimum Street Frontage | 150 feet |
| Minimum Front Setback | 25 feet |
| Minimum Side Setback (principal and Accessory Buildings) | |
| - Principal Residential Building | 15 feet |
| - Accessory Buildings or Structures to principal residential bldg. | 15 feet |
| Maximum Height | |
| - Residential buildings | 35 feet |
| - non-residential buildings and structures | 55 feet |
| - telecommunications towers | (see Section 3.14) |
| - wind generators | None |

(C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the SR District meet the following criteria:

- The proposed use is consistent in character with other uses allowed within the SR District and listed in Section 2.09 (Table of Permitted Uses) as P or PR and is consistent with the purpose of said district.

(D) **Density Bonuses.** Where town water and/or sewer utilities are available, the minimum lot size for the SR zone shown in Table 2.02(B) may be reduced by 25% for each of the utilities to which a single family dwelling is connected.

(E) **Wetlands and Impact on Minimum Lot Size Calculation.** A lot upon which residential development is to occur that does not have access to municipal water or wastewater must contain a minimum of 40,000 square feet of contiguous uplands.

2.03 SUBURBAN RESIDENTIAL DISTRICT – 1 ACRE (SR-1)

(A) **Purpose.** The purpose of the Suburban Residential District is to provide areas in the Town of Farmington for high quality, open space, residential development containing low to medium overall density.

(B) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved and all land within the Suburban Residential District – 1 Acre (SR-1) District shall be used in accordance with Table 2.03(B).

Table 2.03(B) - Space and Bulk Standards – Suburban Residential District – 1 Acre

| | |
|--|--------------------------|
| Maximum Net Residential Density | 1 dwelling unit per acre |
| Minimum Lot Size | 1 acre |
| Minimum Street Frontage | 150 feet |
| Minimum Front Setback | 25 feet |
| Minimum Side Setback (principal and Accessory Buildings) | |
| - Principal Residential Building | 15 feet |
| - Accessory Buildings or Structures to principal residential bldg. | 15 feet |

| | |
|--|--------------------|
| Maximum Height | |
| - Residential buildings | 35 feet |
| - Non-residential buildings and structures | 55 feet |
| - Telecommunications towers | (see Section 3.14) |
| - Wind generators | None |

(C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Land Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the SR District meet the following criteria:

- The proposed use is consistent in character with other uses allowed within the SR District and listed in Section 2.09 (Table of Permitted Land Uses) as P or PR and is consistent with the purpose of said district.

(D) **Wetlands and Impact on Minimum Lot Size Calculation.** A lot upon which residential development is to occur that does not have access to municipal water or wastewater must contain a minimum of 40,000 square feet of contiguous uplands.

2.04 URBAN RESIDENTIAL DISTRICT (UR)

(A) **Purpose.** The purpose of the Urban Residential District is to provide for the protection of existing mixed and multi-family residential neighborhoods immediately surrounding the downtown area, while allowing compatible infilling and innovative new development that creates and preserves open space.

(B) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved and all land within the Urban Residential District (UR) District shall be used in accordance with Table 2.04(B):

Table 2.04(B) - Space and Bulk Standards – Urban Residential District

| | |
|--|---|
| Maximum Net Residential Density | 1 dwelling unit per 5,000 square feet* <i>*This is applicable only to lots that have access to and are connected to both Town water and wastewater. Otherwise, maximum net residential density shall be 1 dwelling unit per acre.</i> |
| Minimum Lot Size | ½ acre (21,780 sf) <i>*This is applicable only to lots that have access to and are connected to both Town water and wastewater. Otherwise, minimum lot size shall be 1 acre.</i> |
| Minimum Street Frontage | 75 feet |
| Minimum Front Setback | 25 feet |
| Minimum Front Setback (principal and Accessory Buildings) | In the case where existing buildings have a uniform setback relationship to the street, any new building or alteration of an existing building shall maintain the existing relationship. Where a uniform setback relationship does not exist, or where abutting lots are not developed, the minimum front setback shall be 25 feet |
| Minimum Side and Rear Setbacks (principal and accessory buildings) | 15 feet |
| Maximum Height | |
| - Residential buildings | 55 feet |
| - non-residential buildings and structures | 55 feet |

(C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Land Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the UR District meet the following criteria:

- The proposed use is consistent in character with other uses allowed within the UR District and listed in Section 2.09 (Table of Permitted Uses) as P or PR and is consistent with the purpose of said district.

2.05 VILLAGE CENTER DISTRICT (VC)

(A) **Purpose.** The purpose of the Village Center District shall be to promote the reuse and redevelopment of the downtown core of Farmington in a manner that enhances its unique character and its function as an urban and social center for the citizens of Farmington.

(B) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved, and all land within the Village Center District shall be used in accordance with Table 2.05(B).

(C) **Special Considerations.** In recognizing the space constraints within a densely developed Village Center District, flexible and innovative parking solutions meeting the criteria set forth in Section 3.08 shall be considered for uses located within the Village Center District.

Table 2.05(B) - Space and Bulk Standards – Village Center District

| | |
|---|--|
| Maximum Net Residential Density | 1 per 5,000 SF |
| Minimum Lot Size | ¼ Acre (10,890 sf) |
| Minimum Street Frontage | 50 feet |
| Front Setback -principal buildings -accessory buildings | Where the existing buildings have a uniform setback relationship to the street (see definitions), any new building or alteration of an existing building shall maintain the existing relationship. An accessory building shall not be located closer to the front lot line than the principal building. |
| Minimum Side and Rear Setbacks (principal and accessory buildings) | None except where residential buffer applies. |
| Maximum Height -principal buildings -accessory buildings and structures | 55 feet 55 feet |

(D) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet

certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the VC District meet the following criteria:

- The proposed use is consistent in character with other uses allowed within the VC District and listed in Section 2.09 (Table of Permitted Land Uses) as P or PR and is consistent with the purpose of said district.

2.06 COMMERCIAL CENTER DISTRICT (CC)

(A) **Purpose.** The purpose of the Commercial Center District shall be to provide nodal centers of small-scale retail and commercial uses that serve the community from readily accessible locations and which define entrances to the downtown.

(B) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved, and all land within the Commercial Center District shall be used in accordance with Table 2.06(B).

(C) **Special Considerations.** Required parking for uses located within the Commercial Center District shall be located to the sides and rear of the primary structure. The front setback for the primary structure shall serve as the front setback for all on-site parking.

Table 2.06(B) - Space and Bulk Standards – Commercial Center District

| | |
|--|----------|
| Minimum Lot Size | 1 Acre |
| Minimum Street Frontage | 200 feet |
| Front Setback (principal & accessory buildings) | 50 feet |
| Minimum Side and Rear Setbacks (principal and accessory buildings) | 15 feet |
| Minimum combined side setbacks of for primary structure | 50 feet |
| Maximum Height | |
| -principal buildings | 55 feet |
| -accessory buildings and structures | 55 feet |

(D) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the CC District meet the following criteria:

- The proposed use is consistent in character with other uses allowed within the CC District and listed in Section 2.09 (Table of Permitted Uses) as P or PR and is consistent with the purpose of said district.

(E) **Frontage Bonus.** Where abutting lots make provisions for a single shared driveway access to a Class I or II highway that meets the approval of the Farmington Planning Board, the Planning Board may approve a reduction

in frontage from 200 feet to 125 feet.

2.07 OFFICE-RESEARCH BUSINESS DISTRICT (ORB)

(A) **Purpose.** The purpose of the Office-Research Business District is to provide areas to accommodate well-planned, high quality office and service uses either individually or in a business park environment.

(B) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved and all land within the Office-Research Business District shall be used in accordance with Table 2.07(B).

(C) **Special Considerations.** Required parking for uses located within the Office-Research Business District shall be located to the sides and rear of the primary structure. The front setback for the primary structure shall serve as the front setback for all on-site parking.

Table 2.07(B) - Space and Bulk Standards – Office-Research Business District

| | |
|---|--------------------|
| Minimum Lot Size | 3 Acres |
| Minimum Street Frontage | 250 feet |
| Front Setback (principal & accessory buildings) | 50 feet |
| Minimum Side and Rear Setbacks (principal and accessory buildings) | 35 feet |
| Maximum Height -principal buildings -accessory buildings and structures | 55 feet 55 feet |

(D) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the ORB District meet the following criteria:

- The proposed use is consistent in character with other uses allowed within the ORB District and listed in Section 2.09 (Table of Permitted Uses) as P or PR and is consistent with the purpose of said district.

2.08 INDUSTRIAL BUSINESS DISTRICT (IB)

(A) **Purpose.** The purpose of the Industrial Business District is to provide areas for traditional industrial and business park development, along with individual industrial development in a well-planned environment.

(B) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved and all land within the Industrial Business District shall be used in accordance with Table 2.08(B).

(C) **Special Considerations.** Required parking for uses located within the Industrial Business District shall be located to the sides and rear of the primary structure. The front setback for the primary structure shall serve as the front setback for all on-site parking.

Table 2.08(B) - Space and Bulk Standards – Industrial Business District

| | |
|--|----------|
| Minimum Lot Size | 4 Acres |
| Minimum Street Frontage | 250 feet |
| Front Setback (principal & accessory buildings) | 50 feet |
| Minimum Side and Rear Setbacks (principal and accessory buildings) | 35 feet |
| Maximum Height | |
| -principal buildings | 55 feet |
| -accessory buildings and structures | 55 feet |

(D) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the IB District meet the following criteria:

- The proposed use is consistent in character with other uses allowed within the IB District and listed in Section 2.09 (Table of Permitted Land Uses) as P or PR and is consistent with the purpose of said district.

| I. Agricultural Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
|--|-----------|-----------|-------------|-----------|-----------|-----------|------------|-----------|
| A. Principal Uses | | | | | | | | |
| • Non-commercial keeping of animals | P | P | P | P | P | P | P | P |
| • Commercial agriculture, including animal husbandry | PR | - | PR | - | - | - | PR | PR |
| • Sale of agricultural products raised on the premises | P | P | P | P | P | P | P | P |
| • Aquaculture | P | P | P | - | - | - | P | P |
| • Forest management | P | P | P | P | P | P | P | P |
| • Timber harvesting | P | P | P | P | P | P | P | P |
| • Commercial processing of wood, including cutting, sawing, splitting and chipping | PR | - | - | - | - | - | - | PR |
| • Logging not impacting more than 50% of basal area within a ten-year period | P | P | P | P | P | P | P | P |
| • Logging impacting more than 50% basal area within a ten-year period | P | P | P | P | P | P | P | P |
| • Non-Commercial mineral extraction | PR | PR | PR | PR | PR | PR | PR | PR |
| • Dog Kennels | SE | SE | SE | - | - | - | - | - |
| • Agricultural uses not specified | SE | SE | SE | SE | SE | SE | SE | SE |
| II. Residential Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| A. Principal Uses | | | | | | | | |
| • Single family detached dwellings | P | P | P | P | P | - | - | - |
| • Two family dwellings | P | P | P | P | P | - | - | - |
| • Multifamily dwellings | - | - | - | PR | PR | - | - | - |
| • Multifamily dwellings above the ground floor of mixed-use developments | - | - | - | PR | PR | - | - | - |
| • Manufactured housing not located within a manufactured housing park | P | P | P | P | - | - | - | - |
| • Manufactured housing parks with access from a Class V or better road | PR | PR | PR | PR | - | - | - | - |
| • Expansions of existing manufactured housing parks | PR | PR | PR | PR | - | - | - | - |
| • Convalescent, rest, or nursing homes | PR | PR | PR | PR | - | - | - | - |
| • Residential care or congregate care facilities | PR | PR | PR | PR | - | - | - | - |
| • Residential uses not specified | SE | SE | SE | SE | SE | SE | SE | SE |
| B. Uses Accessory to Any Residential Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| • Home businesses | PR | PR | PR | PR | PR | PR | PR | PR |
| • Home occupations | P | P | P | P | P | P | P | P |
| C. Uses accessory to Single Family Residential Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| • Renting of rooms and furnishing of board | P | P | P | P | P | P | - | - |
| • Accessory Apartments | P | P | P | P | P | P | P | P |

| | | | | | | | | |
|---|-----------|-----------|-------------|-----------|-----------|-----------|------------|-----------|
| • Child Day Care, Family | P | P | P | P | P | P | P | P |
| • Child Day Care, Family Group | P | P | P | P | P | P | P | P |
| III. Institutional Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| A. Principal Uses | | | | | | | | |
| • Daycare centers or nursery schools with less than 12 children | - | PR | PR | PR | PR | PR | SE | SE |
| • Daycare centers or nursery schools with 12 or more children | - | - | - | SE | PR | PR | SE | SE |
| • Adult day care – out of home | - | PR | PR | PR | PR | PR | SE | SE |
| • Churches, including accessory residential uses | SE | SE | SE | SE | SE | SE | SE | SE |
| • Libraries | - | - | - | SE | PR | - | PR | - |
| • Schools and colleges | - | SE | SE | SE | SE | - | SE | - |
| • Clubs and lodges | SE | SE | SE | SE | SE | - | - | - |
| • Hospitals | SE | SE | SE | SE | SE | - | - | - |
| • Museums | - | - | - | - | PR | PR | - | - |
| • Cemeteries | P | P | P | P | P | P | P | P |
| • Institutional uses not specified | SE | SE | SE | SE | SE | SE | SE | SE |
| IV. Recreational Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| A. Principal Uses | | | | | | | | |
| • Golf Courses | PR | PR | PR | - | - | - | SE | - |
| • Parks and outdoor recreation | PR | PR | PR | PR | SE | - | - | - |
| • Fully enclosed places of recreation | - | SE | SE | SE | SE | SE | - | - |
| • Campgrounds | PR | PR | PR | - | - | - | - | SE |
| • Recreational uses not specified | SE | SE | SE | SE | SE | SE | SE | SE |
| V. Utility Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| A. Principal Uses | | | | | | | | |
| • Essential services | P | P | P | P | P | P | P | P |
| • Public utilities, not including facilities | P | P | P | P | P | P | P | P |
| • Public utilities facilities | SE | SE | SE | SE | SE | PR | PR | PR |
| • Wind generators | SE | SE | SE | SE | SE | SE | SE | SE |
| • Transmitter towers | PR | PR | PR | PR | PR | PR | PR | PR |
| • Utility uses not specified | SE | SE | SE | SE | SE | SE | SE | SE |
| VI. Commercial and Industrial Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| A. Principal Uses | | | | | | | | |
| • Lounges/nightclubs/bars | - | PR | - | SE | PR | PR | - | - |
| • Fully enclosed eating place | - | PR | - | SE | PR | PR | - | - |
| • Takeout eating place | - | PR | - | SE | PR | PR | - | - |
| • Drive-through eating place | - | PR | - | SE | PR | PR | - | - |
| • Financial institutions | - | - | - | - | PR | PR | PR | - |
| • Financial institutions with a drive-through | - | - | - | PR | - | PR | PR | - |
| • Professional/business office | - | - | - | PR | PR | PR | PR | PR |
| • Repair service not involving motor vehicles | - | - | - | PR | PR | PR | - | PR |
| • Small engine repair | - | - | - | PR | PR | PR | - | PR |
| • Health service facilities | SE | SE | SE | PR | PR | PR | PR | PR |
| • Veterinary clinic/grooming | PR | PR | PR | - | - | PR | - | - |
| • Retail stores $\geq 2,500$ sf & $\leq 7,500$ sf | - | - | - | - | PR | PR | - | - |
| • Small-scale retail stores $\leq 2,500$ sf | PR | PR | PR | PR | PR | PR | - | - |
| • Grocery store | - | - | - | - | PR | PR | SE | SE |

| Commercial and Industrial Uses (cont.) | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
|---|-----------|-----------|-------------|-----------|-----------|-----------|------------|-----------|
| • Research and development facility | - | - | - | - | - | - | PR | PR |
| • Laboratories | - | - | - | - | - | - | PR | PR |
| • Hotels and motels | - | - | - | - | PR | PR | PR | PR |
| • Bed & breakfasts | SE | SE | SE | SE | SE | SE | SE | SE |
| • Retail sale of gasoline | - | - | - | - | PR | PR | - | - |
| • Motor vehicle service facility | - | - | - | - | - | PR | - | - |
| • Motor vehicle repair facility | SE | SE | SE | SE | - | PR | - | PR |
| • Motor vehicle sales facility | - | - | - | - | - | PR | - | - |
| • Warehousing | - | - | - | - | - | - | - | PR |
| • Mini-storage warehouses | - | - | - | - | - | - | - | PR |
| • Wholesale sales | - | - | - | - | - | PR | - | PR |
| • Trucking and distribution facilities | - | - | - | - | - | - | - | PR |
| • Light manufacturing | | | | | PR | - | PR | PR |
| • Contractors | - | SE | SE | SE | SE | PR | - | PR |
| • Excavating contractors | SE | SE | SE | SE | - | - | - | PR |
| • Heavy equipment sales | - | - | - | - | - | - | - | PR |
| • Mineral Exploration | P | P | P | P | P | P | P | P |
| • Mineral Extraction | PR | PR | PR | PR | PR | PR | PR | PR |
| • Lumber yards, including the milling and distribution of wood products and the wholesale and retail sales of building materials | - | - | - | - | - | PR | - | - |
| • Funeral homes | - | - | - | PR | PR | PR | - | - |
| • Motor vehicle junk yard | - | - | - | - | - | - | - | SE |
| • Uses involving the manufacture, storage for wholesale distribution of creosote, disinfectant, insecticide, poisons, cement, lime, gypsum or plaster of paris, blast furnace, gasoline, petroleum, kerosene, paint, varnish or shellac | - | - | - | - | - | - | - | - |
| • Commercial-industrial uses not specified | SE | SE | SE | SE | SE | SE | SE | SE |
| B. Accessory Uses – Commercial & Industrial | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| • Retail sales of items manufactured on the premises | P | P | P | P | P | P | P | P |
| • Outside storage of materials, equipment & products in conjunction with an allowed principal use | SE | SE | SE | SE | - | PR | PR | PR |
| • Drive-through services in conjunction with an allowed principal use | - | PR | PR | PR | PR | - | PR | PR |
| VI. Accessory Uses | AR | SR | SR-1 | UR | VC | CC | ORB | IB |
| • Accessory buildings and structures | PR | P | P | P | P | P | P | P |
| • Off-street parking accessory to a permitted use | PR | P | P | P | P | P | P | P |
| • Signs | P | P | P | P | P | P | P | P |

Please note that additional restrictions can be found in the Aquifer Protection Overlay District, Section 4.01(E).

BOUNDARY DESCRIPTION OF DISTRICTS

SECTION 2.09

Village Center District (VC) - The (VC) district shall extend to the rear line of all lots fronting the following:

Starting where South Main Street intersects the Cocheco River to the northerly boundary of Map U5 Lot 1. Also along Central Street from its beginning at Main Street to the point where it is crossed by the Cocheco River.

The Village Center district shall also include both sides of Mechanic Street to Crowley Street, the west side of Crowley Street to East Grove Street and the South side of East Grove Street to North Main Street.

Urban Residential District (UR) - The inner boundary of the (UR) district shall be the outer boundary of the VC district. The outer boundary shall start at the east side of Route 11 at the intersection of Tappan Street and run North to Central Street and along the southern boundary of Map U3 Lot 12 to Map U15 Lot 2 and northerly along its westerly boundary to Map U5 Lot 1, then easterly along its southerly boundary to Map U3 Lot 21, then northerly along its westerly boundary to Map U3 Lot 14, then easterly along its southerly boundary to its end, then north on its easterly boundary where it intersects Map R-49, then along the southern boundary of R-49 until it intersects the Ela River, then along the Ela River to its confluence with the Cocheco River, then from that point to the east side of Spring Street at the intersection of Memorial Drive, then north along Spring Street to Hillview Terrace, then east along Hillview Terrace to Map U4 Lot 15 and along the southerly boundary of Map U4 Lot 15 to Map U11, then north along the westerly boundary of U11 to the northerly boundary of Map U11 Lot 29, then easterly along the boundary where it intersects Old Bay Road, then in a straight line to the point where Map U11 Lot 35 and Map U11 Lot 36 intersect the Cross Road, then along the northerly side of Cross Road to the intersection of Charles Street, then along a line (that extends from the intersection of Waldron Cross Road and Old Bay Road to the point that Route 75 intersects the Farmington/Milton Municipal Boundary) - to the point that the line crosses Dames Brook, then southerly along Dames Brook to a point that is perpendicular to the southern boundary of Map U10 Lot 35, then to the southeast corner of that lot, then in a straight line to the southwest corner of Map U10 Lot 46, then south to the southeast corner of Map U10 Lot 61, then southerly along Kicking Horse Brook to its confluence with Dames Brook, continuing south along Dames Brook to its confluence with the Cocheco River, then north along the Cocheco River to the southeasterly corner of Map U1 Lot 1, then along a straight line to the junction of Hancock Street and Tappan Street, south along Tappan Street to its point of origin.

Suburban Residential (SR) - The (SR) district starts at the northwesterly corner of Map U3 Lot 15-2, then along a straight line to the junction of Waldron Cross Road and Old Bay Road, along a straight line to where Route 75 intersects the Farmington/Milton Municipal Boundary, then in a straight line through the point where the Pokamoonshine Brook crosses South Main Street to the boundary of the IB district, then northwesterly along that boundary and continuing along the CC district boundary to Tappan Street which outlines the outer boundary of the SR district - the inner boundaries are the outer boundary of the UR district.

Industrial Business District (IB) - there are three separate IB districts.

The most southerly district starts at the Rochester/Farmington Municipal Boundary on the west side of Route 11. The district extends from the centerline of Route 11 to a point 2000 feet west of the centerline and north to the Rattlesnake River, then along that river back to Route 11.

The middle IB district starts at a point on the north side of the Meetinghouse Hill Road at the southwesterly corner of Map R31 Lot 34, running north along the westerly boundary to the Pound Road, then westerly on the Pound Road to the southwesterly corner of Map R36 Lot 6, then on a straight line northerly to the southeast corner of Map R50 Lot 2 (which is also the westerly boundary of the middle CC district), then southerly along the CC boundary, then east on the CC southern boundary across Route 11 to the southeast corner of the CC district, then in a straight line south to the southern boundary of Map R32 Lot 22 at a point 500 feet east of the centerline of Route 11, then in a straight line to the point that the Pokamoonshine Brook cross South Main Street, then south on South Main Street, then following Meetinghouse Hill Road to its point of origin.

The northern IB district starts at the New Durham Ridge Road at the southwest corner of Map R50 Lot 47 and runs northerly along the easterly boundary of Map R59 Lot 33 to the northern boundary of R59, then easterly on that boundary across Route

11 and continuing east on the northern boundary of Map R60 to the Ela River, then south on the Ela River to the southeast corner of Map R49 Lot 6, then westerly along the southerly border to Map R49 Lot 6 to Route 11, then south along the west side of Route 11 to the New Durham Ridge Road, then west on the New Durham Ridge Road back to the point of origin.

Office Research Business District (ORB) - the ORB district starts on Route 11 at the Rochester/Farmington Municipal Boundary northerly along Route 11 to the Rattlesnake River, then easterly along the Rattlesnake River to the Cocheco River, then southerly along the Cocheco River to the Rochester/Farmington Municipal Boundary, then along that boundary back to the point of origin.

Commercial Center (CC) - There are three separate **CC** districts.

The most southerly district starts at the northwest corner of Map R20 Lot 23 on the Meetinghouse Hill Road, heading east along the Meetinghouse Hill Road across Route 11, then along South Main Street to the point that the Pokamoonshine Brook crosses it, then along the Pokamoonshine Brook to the Cocheco River, then south along the Cocheco River to the Rattlesnake Brook, then west along the Rattlesnake Brook to the point that it intersects the easterly boundary of Map R20 Lot 35, then north along that boundary to its point of origin.

The middle **CC** district starts at the intersection of Tappan Street and runs easterly along Tappan Street to the northeast corner of Map U1 Lot 24, then along the easterly boundary of U1 Lot 24 on a straight line until it intersects the northern boundary of Map R35, then westerly along that boundary across Route 11 to a point 350 feet from the centerline of Route 11, then along a straight line northerly to the northeast corner of Map R50 Lot 45, then east on the New Durham Ridge Road across Route 11 to the intersection of the Trotting Park Circle Road and Map U3 Lot 15-1, then in a straight line to the easterly intersection of Map U3 Lot 15-1 and Map U3 Lot 15-2, then along the **UR** district boundary to Route 11, then along Route 11 to its point of origin.

The northernmost **CC** district starts on Route 11 at the New Durham/Farmington Municipal Boundary, then west along that boundary to the northeast corner of Map R64 Lot 11, then south along the east boundary of that lot, continuing south along the east boundary of Map R64 Lot 34-2 to the northern boundary of Map R59, then east along that boundary across Route 11 and continuing along the northerly boundary of Map R60 to the Ela River to the New Durham/Farmington boundary, then west to its point of origin.

Agricultural District (AR)

All land west of Route 11 that is not otherwise designated is in the **AR** district.

Surburban Residential 1 District (SR1)

All land east of Route 11 that is not otherwise designated.

SECTION 3.00 GENERAL STANDARDS.

3.01 **RELATIONSHIP OF BUILDINGS TO LOTS.** Every building hereafter erected shall be located on a lot as defined in Section 1.12. Up to two principal single-family dwellings shall be allowed without site plan review and approval by the Planning Board. In this case all dimensional requirements shall be met with sufficient distance between principal structures to permit future subdivision.

3.02 **ACCESS OF LOTS TO STREETS.** No building shall be erected on a lot unless the lot has street frontage as defined in Section 1.12.

(A) **Exception.** A building may be erected on a Class VI road in accordance with RSA 674:41, I(c).

3.03 **DRIVEWAY PERMITS.** No person may build or construct a driveway that provides an access to a public street without first obtaining a driveway permit from the Code Enforcement Officer. The CEO shall refer all applications to the Supervisor of Vehicle Maintenance & Highways (SVM & H) for review. If the SVM & H finds that the application meets the requirements set forth in Sections 3.04(A) and 3.04(B), the SVM & H shall approve the driveway permit and notify the CEO to issue the permit. Such permits may be issued only to the property owner or to the person having an option or lease on the property in question. If the work authorized by the driveway permit has not been started within 12 months of the date of issuance, the permit is declared null and void.

(A) **Driveway Limitations.**

(1) Each lot fronting on a Class V or better road shall be entitled to at least one driveway access per lot. Additional driveway accesses may be permitted with approval by the CEO and the SVM & H.

Any lot used for multifamily residential, institutional, retail, commercial, service, or industrial use having more than one hundred (100) feet of street frontage shall be entitled to one (1) additional driveway access for each two hundred fifty (250) feet of street frontage or portion thereof in excess of one hundred (100) feet, except for those located on a Class I or Class II highway.

(2) The Planning Board shall have the authority in site plan review to require techniques to be utilized to minimize access points along Class I and Class II highways. These techniques include, but are not limited to, shared driveways by abutting property owners, requiring easements for future access roads to non-residential uses along Class I and Class II highways in accordance with an access management plan for said highways.

(B) **Driveway Access Requirements.**

(1) **Location.** All driveway access points shall be located to minimize the impact on traffic safety and flow. Driveway access points shall be located at least twenty-five (25) feet from the intersection of a street.

(2) **Separation.** The distance between driveway accesses must be twenty (20) feet..

3.04 **DEVELOPMENT OF REAR LOTS.** A rear lot is a lot which is located to the rear of another lot or lots with street frontage as defined in Section 1.12. A rear lot existing at of the date of adoption of this section may be developed for residential uses, provided that:

(A) There is an unobstructed access to the rear lot from the street over land that is not needed to meet the minimum requirements of the zone for the front lot.

(B) The proposed driveway must be approved by the CEO, the SVM & H, and a representative from the Fire

Department.

A rear lot existing as of the date of adoption of this section may be developed for non-residential uses, but non-residential developments are subject to site plan review and all other such reviews as may be required.

3.05 **PROJECTIONS INTO REQUIRED SETBACKS.** Notwithstanding other provisions of this ordinance, the following structural elements may project into a required setback as set forth below:

- (A) A cornice, eave, or canopy or other similar architectural features, but not including a bay window, may project into any required setback a distance of not more than four (4) feet.
- (B) A bulkhead may encroach a distance not to exceed four (4) feet.
- (C) A fire escape may project into any required setback a distance of not more than four (4) feet.
- (D) A chimney may project into any required setback a distance of not more than two (2) feet.
- (E) An open, unenclosed platform stoop, or steps, not covered by a roof, may project into any required setback not more than six (6) feet.
- (F) Facilities for handicapped access, including ramps, lifts, and elevators added to a building constructed prior to the date of adoption of this Ordinance may project into any required setback area, provided that the facilities are approved by the Farmington Fire Department on the basis that they will not create or aggravate any public safety or firefighting problems.

3.06 **STRUCTURES PERMITTED ABOVE HEIGHT LIMITS.** Notwithstanding other provisions of this ordinance, roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment, fire or parapet walls, skylights, steeples, flagpoles, chimneys, smokestacks, domestic radio or television masts, water tanks or silos, may be erected above the height limitations set forth in Section 2, but not more than twenty (20) feet above the height otherwise permitted in the district except as specifically provided for in the space and bulk regulations of the zone in which it is located.

3.07 **TEMPORARY ACTIVITIES AND EVENTS.** Temporary uses of a community or nonprofit nature such as festivals, fairs, carnivals, and similar events may be permitted in any zone by vote of the Board of Selectmen, notwithstanding the provisions of this ordinance. Such temporary use shall not be contrary to the objectives of this ordinance. A vote by the Board of Selectmen allowing such temporary use shall not be deemed a change in the zoning and shall apply to the specific event or activity only for its stated duration.

3.08 **OFF-STREET PARKING.** Off-street parking shall be provided for all new construction, expansions, and changes of use in accordance with the requirements and standards found in this section. Off-street parking shall be considered an accessory use when required or provided to serve any legal use located in any zone. An off-street parking space shall be a minimum of 9 feet wide by 18 feet long and may be open or covered. Access to individual parking spaces shall be unobstructed except for parking for residential uses. Parking for one and two family dwellings may be arranged in a stacked layout so that access to one space is over another space(s). Stacked parking may also be used for multi-family residential uses if the parking spaces are assigned to units and the access to one unit's parking space is not obstructed by the parking space of another unit. In order to ensure compliance with this section, the CEO shall require a plan showing the physical layout of all required off-street parking areas. Any change in the evidence or conditions upon

which the plan is approved shall nullify such approval.

(A) **Village Center District.** In recognizing the challenges in providing off-street parking in older downtown districts, this Section seeks to allow effective innovative and collaborative solutions to meeting the parking needs of the Village Center District. The following methods for providing adequate parking in the Village Center District will be considered by the Farmington Planning Board:

(1) The Planning Board may allow off-street parking to be more than six hundred (600) feet from the site if it finds that the distance is reasonable given the nature of the proposed use. Additionally, such parking may be shared if the Planning Board finds that there is adequate parking capacity to meet the parking requirements and that shared parking is controlled through a leasehold or other enforceable agreement.

(2) For nonresidential uses, off-street parking in a municipal parking lot provided by the Town of Farmington may be allowed subject to a written finding by the Planning Board that there is adequate available parking to meet the needs of the use based upon the parking standards of this ordinance.

(3) The Planning Board may allow legal on-street parking to be used to meet the parking requirement of nonresidential use in the Village Center District if it finds that this parking can reasonably be expected to be available for customers of the use and is located within reasonable proximity to the use.

(4) Where multiple uses of a lot occurs, off-street parking shall be provided for each use in accordance with this section. Where the applicant can demonstrate and document non-conflicting periods of use, shared use of parking spaces may be permitted by the Planning Board.

(5) Travel and queuing aisles associated with off-street parking, drive-in facilities and motor vehicle fuel pumps shall be provided and shall not interfere with the use of or be part of the required off-street parking.

(6) The following minimum number of spaces, rounded up to the nearest whole number, shall be provided and maintained for each use on a lot, including each use within all buildings. The Planning Board may reduce the required parking for the reuse of a building existing at the time of adoption of this provision by up to 30%. In granting a reduction, the Planning Board must find that:

(a) the reduction will not create or worsen parking problems in the neighborhood, and

(b) the required number of spaces cannot be reasonably accommodated on the lot.

The maximum number of employees scheduled during peak demand/shift shall be used in calculating the number of required parking spaces when "employee" is referenced in the list below.

Gross floor area shall be used in calculating the number of required parking spaces, unless otherwise noted.

(B) **Minimum Standards for Parking.**

One and two-family dwelling: Two (2) per dwelling unit.

Multi-family dwellings: One and one half (1 1/2) spaces for each lodging unit.

Restaurants (excluding fast food establishments): One (1) space per three (3) seats, plus one (1) space per two (2)

employees, or one (1) space per one hundred fifty (150) square feet of floor area as used, whichever is greater. Where there is a bar, one (1) space per two (2) stools.

Fast food establishments: One (1) space per every two (2) seats, plus one (1) space per employee in the maximum shift, or one (1) space per fifty (50) square feet of gross floor area, plus one (1) space per each employee in the maximum shift.

Wholesale Distribution: One (1) space per eight hundred (800) square feet of gross floor space or one (1) space per employee in the maximum shift.

Manufacturing: One (1) space per each one and five tenths (1.5) employees or one (1) space per five hundred (500) square feet of gross floor space.

Hotel, Motel or Tourist Home: One (1) space for each sleeping room, plus one (1) space for each four hundred (400) square feet of public meeting room.

Office, General: One (1) space per three hundred twenty five (325) feet of gross floor space.

Office, Professional or Medical: One (1) space per two hundred fifty (250) square feet of gross floor space, or five (5) spaces per professional person keeping the office and one (1) per each staff member.

Retail I - Service Establishment, Auto Retail, Real Estate or Laundry: One (1) space per three hundred (300) square feet of net floor area.

Retail II - Furniture, Hardware, Carpets: One (1) space per six hundred (600) square feet of gross floor area.

Retail III - Food, Retail: One (1) space for two hundred (200) square feet of net floor area.

Retail IV - General, including Drugs and Clothing: One (1) space for two hundred fifty (250) square feet of net floor area.

Retail V - Shopping Center: One (1) space for every two hundred (200) square feet of gross lease-able space.

Community Facility-City Building or Recreation: One (1) space for each four hundred (400) square feet of gross floor space.

Hospital and Nursing Homes: One (1) space per each two beds at design capacity.

Theater, Auditorium, Funeral Home or Church: One (1) space for each four (4) seats of total seating capacity.

Gasoline Service Station: Three (3) spaces for each service bay, plus one (1) space per employee in the maximum shift.

Mixed Use: Sum of various uses computed separately.

- (C) **Design Standards for Parking Bays.** All off-street parking bays shall conform to the following minimum specifications:

| <u>Parking Angle</u> | <u>Curb Length/Vehicle</u> | <u>Minimum Bay Depth*</u> |
|----------------------|----------------------------|---------------------------|
| 90 degrees | 9.0 feet | 18 feet |
| 60 degrees | 10.4 feet | 21 feet |
| 45 degrees | 12.7 feet | 27 feet |

*Actual Length of Parking Line

3.09 **SIGNS.** All signs shall conform to the provisions of this section.

(A) **General Provisions.** All signs shall be in conformance with this section, the BOCA Code, and the NH RSA 236:69 –89.

(B) **Permits:**

(1) Political signs, traffic control, road direction and identifying signs, temporary signs, no trespassing signs, signs advertising yard sales and signs advertising the sale or lease of the premises, do not require a permit.

(a) All political signs, including posters, are considered to be temporary. They shall not be erected until thirty (30) days prior to any election and shall be removed within fifteen (15) days of the State's general and/or local election. The maximum surface area shall not exceed thirty two (32) square feet in all areas. Attaching signs and/or posters to property without permission shall be prohibited. The candidate or candidates whose name(s) appear on any such signs shall be responsible for their proper location, erection, and removal.

(2) All signs except those listed in **3.09, B. 1.** Require a permit.

(a) Permit applications are available in the Code Enforcement Office.

(C) **Size:** All signs shall conform to the following size limits.

(1) In the C, AR, SR, VR, AND VC, there shall be:

(a) No more than one (1) sign displaying the name and address of the occupants with a maximum size of four (4) square feet of message area per side.

(b) No more than one sign to identify the activities with a maximum size of sixteen (16) square feet of message area per side.

(c) One identifying sign for each public, institutional, or membership club with a maximum of twenty four (24) square feet of message area per side.

(2) In the (CC), (ORBC), and (IB), signs shall be limited to those which aid identification, advertise goods, services, or products manufactured or offered for sale on the premises as follows:

(a) No more than one (1) free standing sign with a maximum of fifty (50) square feet in area shall be allowed for each business or industrial establishment.

(b) Additionally, up to one wall mounted sign not exceeding fifty (50) square feet may be exhibited on the outside of the principal structure.

(c) Multiple building developments (industrial subdivisions) are allowed one sign within the complex to serve as a directory. Up to 2 square feet per principal use may be used to display the business name or other pertinent information. The placement of said complex directory is subject to Site Plan Review.

(d) Non-illuminated signs on the inside of a window not to exceed one third (1/3) of the window size.

(e) The number limitation signs do not apply to traffic, directional or other utility signs.

(D) **Sign Properties.**

(1) Signs may neither move nor give the illusion of movement . The exception to this is a clock display on the sign.

(2) Signs shall not be lighted with flashing lights. Lighted signs shall not obstruct motorists visibility. Illumination shall not spill light onto adjacent property.

(3) General advertisement in the form of a billboard shall be prohibited.

(E) **Sign Location.**

(1) Signs are prohibited within the public way. High point of roof signs shall not exceed ten (10) feet above roof line. No sign shall be closer than ten (10) feet from side or rear property lines. Maximum height shall not exceed thirty (30) feet. Projecting signs shall not be closer than two (2) feet from the curb and must be a minimum of nine (9) feet above ground.

(2) Off-premise signs are prohibited.

3.10 **PRIVATE ROAD STANDARDS.** The Planning Board may approve the use of private roads controlled by a legally established entity responsible for the maintenance of the private road. Private roads must be built in accordance with the standards set forth in the Farmington Site Review Regulations.

3.11 **TELECOMMUNICATIONS TOWERS/STRUCTURES.**

(A) **Purpose and Intent.** The following provides general guidelines for the siting of telecommunication facilities and antennas and to enhance and fulfill the following goals:

(1) Preserve the authority of the Town of Farmington to regulate and to provide for reasonable opportunities for the siting of telecommunication facilities while ensuring that telecommunications provider service remains effective and efficient.

(2) Reduce or eliminate adverse impacts such facilities may create.

(3) Provide for co-location and minimal impact siting options through an assessment of technology, current locational options, future location availability, innovative siting techniques.

(4) Permit the construction of new towers only where all other reasonable alternatives have been exhausted, and to encourage the owners and users of towers and antennas to configure them in a manner that minimizes visual impacts of said structures.

(5) Encourage antenna co-location on existing tower structures through cooperation and agreements between providers.

(6) Provide for maintenance and safety inspections for all telecommunications facilities and appurtenances.

(7) Provide for the demolition and removal of abandoned facilities. Provide a means for the Town to remove abandoned towers to provide for the health and safety of citizens.

(B) **General Provisions**

(1) **Applicability.**

(a) The terms of this Article and the Site Plan Review Regulations shall apply to telecommunications facilities proposed to be located on property that is within the geographic boundaries of the Town of Farmington, N.H.

(b) All applications for a telecommunications facility pending on the effective date of these regulations shall be reviewed under the provisions of these regulations.

(2) **Authority.** The Planning Board of Farmington, New Hampshire (hereinafter, "Planning Board") is vested with the authority to review, approve, conditionally approve and disapprove applications for telecommunications facilities.

(3) **Amendments.** In keeping with the spirit and intent of the guide, as well as to accommodate changing technology, the Planning Board may propose amendments.

(C) **DEFINITIONS**

Abandoned. A telecommunications facility shall be considered abandoned if the facility is not operated for a continuous period of one hundred eighty (180) days, is no longer needed for the operation of the network, or if construction approved by the Planning Board is not completed within twelve (12) months of site plan approval.

Antenna. The surface from which wireless radio signals are sent and/or received by a telecommunications facility.

Antenna Array. A collection of antennas attached to a mount to send and/or receive radio signals.

Average Tree Canopy Height An average found by inventorying the height of all trees over twenty feet in height for a defined area, such as the area delineated in Section 3.11(G)4.

Camouflaged. A telecommunications facility that is disguised or hidden from view.

Co-location. The use of a single mount by more than one carrier.

Elevation. A vertical measurement above mean sea level (AMSL).

Equipment Shelter. An enclosed structure, cabinet, shed, vault or box within which are housed equipment for telecommunications facilities such as batteries and electrical/electronic equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Fall Zone. The area on the ground from the base of a ground mounted telecommunications facility that forms a radius equal to one hundred percent (100%) of the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Height. The vertical measurement from the natural grade to the highest point of an object above ground level (AGL).

Licensed Carrier. A company authorized by the FCC to construct and operate a telecommunications facility. Also referred to as a carrier or provider.

Mast. A thin pole that resembles a street light standard or a telephone pole.

Monopole. A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete that is designed for the placement of antennas and arrays along the shaft.

Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:

- (1) Roof-mounted. Mounted on the roof of a building.
- (2) Side-mounted. Mounted on the side of a building.
- (3) Ground-mounted. Mounted on the ground.
- (4) Structure-mounted. Mounted on a structure other than a building.

Radiofrequency Radiation (RFR). The emissions from telecommunications facilities.

Security Barrier. A wall, fence or berm that restricts an area from unauthorized entry or trespass.

Telecommunications Facility. Facility for the provision of telecommunications services, if present telecommunications facilities include a mount, antenna, equipment shelter and other related equipment.

Telecommunications Services. The types of services regulated by this Guide: commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange services as defined in the Telecommunications Act of 1996. These services include, but are not limited to cellular telephone services, specialized mobile radio communications (SMR), enhanced specialized mobile radio (ESMR), personal communications service (PCS), paging services and similar services that are marketed to the general public.

Temporary Telecommunication Facility. A facility designed for the provision of temporary telecommunications

services while a permanent telecommunications facility is under construction.

Tower. A self-supporting lattice, guyed or monopole structure constructed from grade, which supports Telecommunications Facilities. The term Tower shall not include amateur radio operators' equipment, as licensed by the FCC.

(D) **DISTRICT REGULATIONS**

(1) **Location.** Telecommunications facilities shall be permitted in all Zoning Districts, except as restricted by this Article. Applicants seeking approval for telecommunications facilities shall first evaluate existing structures for the siting of telecommunications facilities. Only after finding existing structures unfeasible, shall a provider propose a new ground mounted facility.

(2) **Existing Structures.** Telecommunications facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles or towers and related facilities, provided that such installation preserves the character and integrity of those structures.

(3) **Burden of Proof.** The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its telecommunications facility. To meet that burden, the applicant shall take the following actions:

(a) The applicant shall submit to the Planning Board a list of all contacts made with owners of existing structures regarding the availability of Space for a telecommunications facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.

(b) The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.

(c) If the applicant claims that a structure is not capable of physically supporting a telecommunications facility, this claim must be certified by a licensed professional engineer. The certification shall, at a minimum, explain the structural issues, demonstrate that the structure cannot be modified to support the telecommunications facility, and that alternative locations are not available.

(d) If the applicant claims that a structure is not capable of siting a telecommunications facility due to radio frequency propagation concerns, this claim must be certified by a licensed professional engineer, radio frequency engineer. The certification shall, at a minimum, include radio frequency propagation plots, evidence that alternative locations are not available to provide the level of propagation desired, and evidence that the level of service will not be functional.

(E) **Ground Mounted Facilities.**

(1) **Policy.** If the applicant demonstrates to the satisfaction of the Planning Board that it is not feasible to locate on an existing structure, ground mounted telecommunications facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and

colors, screening, landscaping, and placement within trees.

(2) **Locations for Ground Mounted Facilities.** Ground mounted telecommunications facilities shall be prohibited from the Protected Areas indicated in the following table:

| Area Name | Protected Area |
|--|---|
| Class I State Highways | 250 feet on each side |
| Class II State Highways | 100 feet on each side |
| Farmington Designated Scenic Roads | 250 feet on each side |
| Topographical Viewsheds | Above nine hundred (900) feet elevation |
| Waterfront Protection Overlay Zone | Controlled Development Zone |
| Aquifer Protection Zone | All |
| Wetlands Conservation Overlay District | Class One and Class Two Wetlands |
| Conservation Lands Layer | All |
| Sites and properties listed on the National Register | All |

(F) **Use Regulations.** A telecommunications facility shall require a building permit in all cases and may be permitted as follows:

(1) **Existing Tower Structures.** Subject to the issuance of a building permit that includes review by the Planning Board, carriers may locate a telecommunications facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Article, or on any telecommunications facility previously approved under the provisions of this Article so long as the co-location complies with the approved Site Plan. All the Performance Standards from this Article shall be met. This provision shall apply only so long as the height of the mount is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, site plan review by the Planning Board is required.

(2) **Reconstruction of Existing Tower Structure.** An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Article may be reconstructed with a maximum twenty (20) foot increase in height so as to maximize co-location so long as the standards of this Article are met and so long as this twenty (20) foot increase in height does not cause a facility to exceed two hundred (200) feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. Site Plan review by the Planning Board is required.

(3) **Existing Structures.** Subject to the provisions of this Article and site plan review, and except as otherwise permitted under 3.11(F)1, a carrier may locate a telecommunications facility on an existing structure, building; utility tower, pole or water tower.

(4) **Ground Mounted Facility.** A telecommunications facility involving construction of a ground mount shall require site plan review by the Planning Board and be subject to the provisions of this Article.

(5) **Temporary Telecommunications Facility.** Temporary telecommunications facilities are not permitted.

(G) Dimensional Requirements

- (1) Telecommunications facilities shall comply with the following requirements:

(a) Height

[1] **Maximum.** In no case shall a telecommunications facility exceed two hundred (200) feet in height, unless the mount for the facility was greater than two hundred (200) feet in height prior to the adoption of this article.

[2] **Height, Existing Structures and Utility Poles.** Carriers that locate new telecommunications facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than twenty (20) feet. This increase in height shall be permitted once for each structure.

[3] **Height, Other Existing Structures.** Except as permitted in 6.1 (B), the height of a telecommunications facility shall not increase the height of a structure by more than twenty (20) feet, unless the telecommunications facility is completely camouflaged; for example, a telecommunications facility completely within a flagpole, steeple, or chimney. The increase in the height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a telecommunications facility on a building that is legally non-conforming with respect to height, provided that the provisions of this Article are met.

[4] **Height, Ground-Mounted Facilities.** Ground-mounted telecommunications facilities shall not project higher than twenty (20) feet above the average tree canopy height within a one hundred fifty (150) foot perimeter of the mount, security barrier, or designated clear area for access to equipment whichever is greatest.

[5] **Setbacks.** All telecommunications facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the telecommunications facility is located.

[6] **Fall Zone for Ground Mounts.** In order to ensure public safety, the minimum distance from the base of any ground-mount of a telecommunications facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article.

[7] **Fall Zone for Non-Ground Mounts.** In the event that an existing structure is proposed as a mount for a telecommunications facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing, non-conforming structures, telecommunications facilities and their equipment shelters shall not increase any non-conformities.

(H) Performance and Design Standards

- (1) **Visibility.** Visual impacts are measured on the basis of:

(a) Change in community scale, as exhibited in relative height mass or proportion of the

telecommunications facility within their proposed surroundings.

(b) New visible elements proposed on a contrasting background.

(c) Different colors and textures proposed against a contrasting background.

(d) Use of materials that are foreign to the existing built environment.

(2) **Enhancements.** Enhancements are measured on the basis of:

(a) Conservation of opportunities to maintain community scale, e.g., buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.

(b) Amount and type of landscaping and/or natural vegetation.

(c) Preservation of view corridors, vistas, and view sheds.

(d) Continuation of existing colors, textures and materials.

(3) **Visibility.** Visibility focuses on:

(a) Eliminating or mitigating visual impact.

(b) Protecting, continuing and enhancing the existing environment.

(4) **Camouflage for Facilities on Existing Buildings or Structures:**

(a) **Roof Mounts.** When a telecommunications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

(b) **Side Mounts.** Telecommunication facilities which are side mounted shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.

(5) **Camouflage for Ground Mounted Facilities.** All ground-mounted telecommunication facilities shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum perimeter of one hundred fifty (150) feet from the mount, security barrier or designated clear area for access to equipment, whichever is greatest, and screens views of the telecommunications facility in all directions. These trees must be existing on the subject property or planted on site. The Planning Board shall have the authority to decrease, relocate or alter the required buffer based on site conditions. The one hundred fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying, and present a hazard to persons or property.

(6) **Color.** To the extent that any telecommunications facilities extend above the height of the vegetation

immediately surrounding them, they shall be painted with a color which blends with the background or surroundings.

(7) **Equipment Shelters:** Equipment shelters for telecommunications facilities shall be designed consistent with one of the following design standards:

- (a) Equipment shelters shall be located in underground vaults; or
- (b) Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the telecommunications facility; or
- (c) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or fence; or
- (d) If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

(I) **Lighting, Signage, and Security**

(1) **Lighting.** Telecommunications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot candles.

(2) **Signage.** Signs shall be limited to those needed to identify the property and the owner and warn of any danger and shall comply with the requirements of the Farmington Sign Use Regulation.

(3) **Security.** All ground-mounted telecommunication facilities should be surrounded by a security barrier. All access roads to ground mounted telecommunications facilities shall be gated to prevent unauthorized vehicular entry to the subject property, or any landscape easements provided for in Section 3.11(H)5.

(J) **Historic Buildings**

(1) Any telecommunications facility located on or within a historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

(2) Any alteration made to a historic structure to accommodate a telecommunications facility shall be fully reversible.

(3) Telecommunication facilities authorized by this subsection shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

(K) **Driveways.** Existing entrances and driveways to serve a telecommunications facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic, and environmental impact. New access roads to serve a telecommunications facility shall be designed to provide adequate emergency

services to the facility while minimizing impact upon existing foliage and natural landscaping. Final approval of road design will rest with the Planning Board.

(L) **Antenna Types.** Any antenna array placed upon an existing or proposed ground mount, utility pole, or transmission line mount shall have a diameter of no more than four (4) feet. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array is of no significant impact.

(M) **Hazardous Waste.** No hazardous waste shall be discharged on the site of any telecommunications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred ten (110) percent of the volume of the hazardous materials stored or used on the site.

(N) **Noise.** Generated noise shall be mitigated to the extent possible.

(O) **Radio-frequency Radiation (RFR) Standards.** All equipment proposed for a telecommunications facility shall be authorized by the FCC Guidelines for Evaluating the Environmental Effects of Radio-frequency Radiation (FCC Guidelines), under *Report and Order*, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

(P) **Monitoring and Maintenance.**

(1) **Maintenance.** The owner of the telecommunications facility shall maintain the telecommunications facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount, security barrier and maintenance of the buffer areas and landscaping.

(2) **Monitoring.** As part of the issuance of the Site Plan approval or Building Permit the property owner shall agree that the Town of Farmington may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier, but not necessarily accompanied by the carrier and/or property owner.

(Q) **Security for Removal.** Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities. In the event that a telecommunications facility is abandoned and/or the telecommunications facility owner is unwilling or unable to remove the facility in accordance with Section 09.2 of the *Telecommunications Site Review Regulations*. The amount of the security shall be based upon the cost of such removal plus fifteen (15) percent, provided by the applicant and certified by a professional civil engineer, licensed in New Hampshire. The owner of the telecommunications facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a registered structural engineer every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen (15) percent, then the owner of the telecommunications facility shall provide additional security in the amount of the increase.

(R) **Abandonment and Discontinuation of Use**

(1) **Notification.** At such time that a carrier plans to abandon or discontinue operation of a telecommunication facility, such carrier will notify the Town of Farmington by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior

to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the telecommunications facility shall be considered abandoned pursuant to 5.03(A) of this Article.

(2) **Removal.** Upon abandonment or discontinuation of use, the owner of the telecommunications facility shall physically remove the telecommunications facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically Remove" shall include, but not be limited to:

- (a) Removal of antennas, mount, equipment shelters and security barriers from the subject property
- (b) Proper disposal of the waste materials from the site in accordance with local and State solid waste disposal regulations.
- (c) Restoring the location of the telecommunications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

(3) **Failure to Remove.** If the owner of the telecommunications facility does not remove the facility upon the order of the Farmington Code Enforcement Officer, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the telecommunications facility shall dismantle and remove the telecommunications facility within ninety (90) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned telecommunications facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

3.12 STEEP SLOPE DEVELOPMENT STANDARDS

(A) **Purpose.** This section provides guidelines for the environmental protection of areas with steep slopes. The intent is to prevent erosion and/or flooding caused by human activity.

(B) **Applicability.** All uses and activities established after the effective date of this Ordinance shall comply with the following standards. Site alterations, re-grading, filling or the clearing of vegetation or any other activity deemed detrimental to any environmentally sensitive area, any steep slope area or any other resource prior to the submission of plans for subdivision or land development shall be a violation of this Ordinance.

(C) **Compatibility of Structures with Topography.** Structures shall be designed in a manner that requires a minimum amount of alteration to the steep slope and that otherwise complies with the grading standards set forth in this section.

(D) **Stormwater Management, Erosion and Sedimentation Control.** Particular caution shall be taken to prevent increases in the rate of stormwater runoff and erosion downslope of any steep slope development site. An approved stormwater management plan and an erosion and sediment control plan meeting the requirements of the Town of Farmington's Subdivision and Site Review Regulations shall be submitted before any use is approved.

(E) Steep Slope Conservation

- (1) Under no circumstances shall the road bed of a driveway or access road exceed 20%
- (2) Any site disturbance of slopes exceeding fifteen percent (15%) shall be minimized.
- (3) No site disturbance shall be allowed on slopes exceeding twenty-five (25%), except under the

following circumstances.

(a) Logging shall be by specific approval of the Planning Board. A "submission plan" shall include:

- an approved soil erosion and sedimentation plan;
- a listing of the amounts and species of timber to be harvested, which in no case can be conducted on more than twenty-five percent (25%) of the basal area of the timber located on these slopes; and
- a reclamation plan for restoring the site.

Precautions shall be taken to avoid destruction or injury of brush and trees not to be harvested.

(b) Grading for a portion of a driveway or access road accessing a single family dwelling when it can be demonstrated that no other routing is possible which avoids slopes exceeding twenty-five percent (25%).

(c) Any driveway or other access road must be designed to have a slope length no greater than seventy-five (75) feet.

- (4) More than thirty percent (30%) average slope: No development shall be allowed except upon submission of a report by a certified soil or geo-technical engineer indicating that the steep slope may be safely developed and execution of a provisional agreeing to hold the Municipality harmless from any claims of damages due to approval of such development. If development is allowed to proceed under this subsection, no more than fifteen percent (15%) of such areas shall be developed and/or re-graded or stripped of vegetation.
- (5) No landslide prone area may be disturbed. In no case shall any development take place on any portion greater than thirty-five percent (35%).
- (6) No development shall take place within fifty (50) feet of any area determined to be landslide prone by a geo-technical study as referred to in number (3) above.
- (7) All primary and accessory buildings, septic systems, detention basins, or other structures that may create a severe impact upon the slope shall be set back twenty (20) feet from all ridge lines or slope tops.
- (8) Property owners of tillage and nursery operations, on slopes, exceeding eight (8%) percent, shall develop a conservation plan for the site in cooperation with the Natural Resource Conservation Service.
- (9) Grading or earthmoving on all sloping lands exceeding fifteen (15%) percent shall not result in earth cuts or fills whose highest vertical dimensions exceed ten (10) feet, except where no alternatives exists for construction of public roads, drainage structures, and other public improvements, in which case such vertical dimensions shall not exceed twenty (20) feet. Finished slopes of all cuts and fills shall not exceed three-to-one (3:1), unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.

(F) Submission Requirements

(1) **Applicability.** Prior to commencing any site disturbance for any purpose, a resource plan shall be submitted to and approved by the Planning Board.

(2) **Resource Plan**

- (a) A resource plan shall include the following information. When any of this information already has been prepared as part of an application under the Site Review or Subdivision Regulations, then it shall be duplicated and inserted into the pertinent section(s) of the Resource plan.
- (b) Resource Plan review shall have the same notification requirements as those indicated for site review in the Site Review Regulations.

(3) **Inventory**

- (a) **Property Base Map.** A base map of the applicant's property shall meet the requirements for preliminary plan approval under the Subdivision Regulations with respect to: sheet size, scale, property acreage calculations, delineations of courses and distances of property boundaries, dedicated street rights-of-way, and easements.
- (b) **Boundary and Adjoining Property Conditions.** The following information shall be indicated on the property base map: names of adjoining property owners; residential and institutional structures within one hundred (100) feet of applicant's property boundaries; and existing zoning and minimum setback requirements applicable to the applicant's property and adjoining properties. A smaller scale map, drawn as an inset on the base maps sheet, may be used to present information on adjoining property conditions as set forth in the Site Review or Subdivision Regulations.
- (c) **Existing Natural Areas.** The following information shall be shown on the property base map:
 - i. Location and delineation of ponds, streams, wetlands, and natural drainage swales, not only in the subjects property, but also on immediately adjoining properties within 100 feet of the common boundary.
 - ii. Surface waters, aquifers, floodplains and floodways, based upon available information, published or more detailed data obtained by the applicant for his property by professional consultants.
 - iii. Topography, the contour line intervals of which shall be not more than two (2) feet for land with average natural slope of four percent (4%) or less, and not more than five (5) feet for land with average natural slope exceeding four percent (4%). The benchmark to which contour elevations refer shall be identified; where reasonably feasible, the elevations shall be referenced to USGS datum.
 - iv. Soil series, types, and phases, as mapped by the Natural Resources Conservation Service, and accompanying data tabulated for each soil, including: its name, depth, to seasonal high water table, agricultural capability class, erodibility, and hydrologic group, and clear denotation of all poorly and very poorly drained soils.
 - v. Vegetative cover conditions on the property according to general cover type, e.g., cultivated land, hedgerow, woodlands, etc.
 - vi. All scenic vistas and other natural resource areas on the subjects' property and on surrounding parcels are to be clearly designated.

(4) Impact Assessment

- (a) All applicants shall assess the on-site and off-site impacts of their proposed activities and improvements on existing environmentally sensitive areas. The assessment shall include the following:
- i. Delineation of the location and tabulation of the acreage of resources which would be disturbed. Such features shall, at a minimum, include those cited in this Ordinance.
 - ii. Where possible, the delineation of the location and tabulation of the acreage of all resources on the applicants property and surrounding property.
 - iii. Delineation of the location and dimensions of all improvements proposed by the applicant, including tabulations of gross square foot coverage of any proposed impervious surfaces.
 - iv. Grading plans that clearly show all proposed alterations to the property's existing topography.
 - v. Consideration of all reasonable alternatives to minimize disturbances to resources. The applicant shall furnish evidence that such alternatives were considered.

(G) ADMINISTRATION

- (1) Resource Plans submitted as part of a Subdivision, Site Review Application or a Special Use Permit Application shall be reviewed according to the provisions governing the review of subdivision or site review or special use application.
- (2) Required Resource Plans which are unrelated to a Subdivision, Site Review or Special Use Applications shall be reviewed according to the following guidelines.

(a) Plan Review

- i. Applicants for activities noted in this ordinance but not related to a subdivision or land development shall submit a natural resource area plan. The natural resource area plan shall be approved or denied by the Planning Board following the filing of a complete and properly prepared permit application and natural resource area plan.
- ii. All approved plans must be officially signed and dated by the Planning Board and the applicant prior to commencing any site disturbance. The applicant's signature shall constitute a written certification that all work shall be performed in accordance with the plan.

(b) Inspections

- i. No site disturbance work shall proceed to a subsequent phase, as detailed in Subsection ii, below, until inspected and approved by the Code Enforcement Officer, who shall then file a report thereon with the Planning Board and the Commission.
- ii. The times of inspection shall be as follows:

- (1) Upon completion of rough grading, but prior to placing top soil, installing permanent drainage or other site improvements, or establishing ground covers.
- (2) Upon completion of final grading, landscape improvements, and other mitigation of work undertaken in accordance with the approved Resource Plan.
- (3) The Code Enforcement Officer may make random inspections as deemed necessary and appropriate.

3.13 MANUFACTURED HOUSING STANDARDS

- (A) The Housing and Urban Development Standards for the regulation of manufactured housing (RSA 47:22-a). No manufactured housing unit may be placed in the Town without being placed upon a foundation of either a poured concrete wall, a poured concrete slab or a mortared concrete block wall with a proper footing. (Adopted 1984)
- The Standards shall apply to all manufactured housing units brought into town after the initial adoption of the Standards. (1984)
- The Standards shall apply to any manufactured housing unit moved from one location in town to another location in town.
- The Standards shall not apply to manufactured housing units that were placed as dwellings when the Standards were first adopted (1984) and which remain in the same location they were in 1984.
- A HUD Label applied to the unit at the time of manufacture shall be prima facie evidence that an unaltered unit meets the standards. If there is no HUD Label or the unit has been altered, the owner must prove that the unit meets the standards. (Adopted March 1992)

3.14 HOUSING AND OTHER STANDARDS

- (A) All buildings in town must comply with the **BOCA Basic Building Code**. Fees as established by the Planning Board must be paid for building permits. (Adopted 1986)
- (B) The Town has adopted the **BOCA National Fire Prevention Code - Appendix B**. Recommended Ordinance adopting basic fire control measures and regulations governing conditions which could impede or interfere with fire suppression forces. (Adopted March 1990)
- (C) The **National Fire Protection Association Code**, commonly known as the **Life Safety Code**, is adopted and the Fire Chief is authorized to enforce the same. (Adopted 1984)
- (D) A Housing Code is adopted and in effect in the Town of Farmington and the Selectmen have adopted regulations in conformance with their authorization by the Town. (Adopted 1986)
- (E) **Fencing Requirements for Swimming Pools**. Any pool in Farmington used for swimming or bathing shall be in conformity with the following requirements:
- (1) **Fencing**. Every outdoor pool shall be completely surrounded by a fence or wall not less than four (4) feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four (4) inches in any dimension, except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimension shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such enclosure.

- (2) **Gates**. All gates or doors opening through such enclosures shall be securely closed at all times when

not in actual use.

(3) **Pools to which provisions are applicable.** The requirements of this ordinance shall be applicable to all existing swimming pools hereafter constructed which have the capability of accommodating a depth of at least eighteen inches (18") of water; provided, however, that no existing or proposed above-ground swimming pool shall be governed by these provisions unless it shall in fact be filled to a depth of eighteen inches (18") or greater of water.

(4) **Exceptions.** Above ground pools with walls in excess of forty-eight (48) inches in height shall, for the provisions of this chapter, be considered as fenced so long as any means of egress, i.e., ladders, stairways, etc. are removed or rendered impassible, whenever said pool is not in actual use.

3.15 SLUDGE

- (A) To protect the public health and welfare, and to protect surface and groundwater resources, the stockpiling and land spreading of municipal sewage sludge and industrial paper mill sludge is not allowed in the Town of Farmington.
- (B) This section shall not apply to sewage/septage/sludge generated within the Town of Farmington.
- (C) This section shall not apply to Class A sludge-derived products sold by the bag to home gardeners.

3.16 RECREATIONAL VEHICLE PARKS OR CAMPGROUNDS

Where allowed shall meet the following special conditions:

1. Occupancy by long-term tenants is limited from after May 1st to October 1st of each year.
2. Occupancy after October 1st and before May 1st is limited to no more than four (4) weeks in the Town of Farmington.
3. Accurate account of registration must be kept on all tenants and guests along with date of occupancy and their permanent address of residence.
4. Records must be made available for inspection by appropriate officials of the Town of Farmington upon demand.
5. Facilities shall be maintained in such a manner that is required by applicable codes, regulations and ordinances and shall be subject to inspection by appropriate officials without notice.
6. That all Recreational Vehicle Parks or Campgrounds be licensed and renewed every April 1st.

The following words or phrases are hereby defined for the purpose of this article.

Recreational Vehicle Park: Any tract or parcel of land occupied or intended for occupancy by two (2) or more recreational vehicles.

Recreational Vehicle: Any mobile home, trailer, motor home, tent, lean-to, shelter or other temporary, semi-permanent structure normally intended for transient or recreational use. All campers or recreational vehicles must be eight (8) feet or less in width in its traveling mode.

Tenant: Any party, member of a party, or in the case of condominium declaration, owner that occupies any particular site.

Long-Term Tenant: Any tenant that is registered to occupy any site within the Town of Farmington for more than three (3) continuous weeks (Adopted March 1990).

SECTION 4.00 OVERLAY DISTRICTS.

4.01 AQUIFER PROTECTION OVERLAY DISTRICT.

- (A) **Authority and Purpose.** By the authority granted in the N.H. RSA 674:16-17 and 674: 20-21 and in the interest of public health, safety and general welfare, and in order to protect, preserve and maintain existing and potential ground water supply and ground water recharge areas within the known aquifer from adverse development or land use practice.
- (B) **Standards.** All development within the Aquifer Protection Overlay District shall be accomplished in conformance with Best Management Practices as defined in N.H. Administrative Rules Env-Ws 421 and furthermore shall be in accordance with the Town of Farmington Health Ordinance for Wellhead and Groundwater Protection. All buildings and structures shall be erected, structurally altered, enlarged, or moved and all land within the Aquifer Protection Overlay District shall be used in accordance with the Space and Bulk Standards of the District in which the use is proposed or in accordance with Table 4.02(B) In all cases, the more restrictive requirements shall apply:

Table 4.02(B) - Space and Bulk Standards – Aquifer Protection Zone

| | |
|--|--|
| Maximum Net Residential Density | 1 dwelling unit per 2 acres |
| Minimum Lot Size | cluster subdivision: 0.75 acres* non-cluster subdivision: 2 acres |
| Minimum Lot Area per Dwelling Unit | non-cluster subdivision: 2 acres |
| Minimum Street Frontage | 150 feet |
| Minimum Front Setback | 25 feet |
| Minimum Side Setback (principal and Accessory Buildings) | |
| - Principal Residential Buildings | 15 feet |
| - Accessory Buildings or Structures to principal residential bldg. | 15 feet |
| Maximum Height | |
| - Residential buildings | 35 feet |
| - Non-residential buildings and structures | 55 feet |
| - Telecommunications towers | (see Section 3.14) |
| - Wind generators | None |

***See Cluster Subdivision Regulations for frontage and setback requirements**

- (C) **Description and Location.** The Aquifer Protection Zone is determined to be an area identified in the most recently available "5 day Pumping Test" report(s) as the 180 Day Zone(s) of Contribution. (See attached map)

Incorrectly Designated Zones. When actual boundary of the Aquifer Protection Zone is in dispute by any owner or abutter affected by said boundary, the Planning Board, at the owners/abutters expense and request, may engage a professional geologist or hydro geologist to determine more accurately the precise boundary of said Aquifer Protection Zone.

- (D) **Prohibited Uses:** The following shall not be permitted in the Aquifer Protection Zone and in no way are these to be treated as exclusive or definitive.
- Disposal of solid wastes other than brush, or stumps
 - Storage of petroleum or other petroleum products except within buildings to be heated by such products
 - Disposal of liquid or leachable wastes, except from single or multi-family residential subsurface disposal systems or approved commercial systems which discharge human wastes only.

- d. Industrial uses which discharge contact type process waters on site, non-contact cooling water is permitted
- e. Storage of rock salt or other de-icing chemicals
- f. Dumping of snow containing de-icing chemicals brought from outside the Aquifer Protection Zone
- g. Commercial animal feed lots where animals are kept
- h. Excavation of sand or gravel, except where conducted in accordance with an approved Earth Removal Permit
- i. All on site handling, disposal, storage, processing or recycling of hazardous or toxic materials
- j. Automotive service and repair shops
- k. Junk and salvage yards
- l. Bulk storage of toxic materials for resale or distribution
- m. Storage of pesticides, herbicides, and fertilizers and their applications are to be strictly limited
- n. Rendering impervious more than ten percent (10%) of any lot.

(E) Permitted Uses:

- a. Residential units with restrictions on density
- b. Public and private open space recreational use exclusive of drive-in theaters, fairgrounds, campgrounds and racetracks.
- c. Accessory uses and buildings including home occupations, but only after review of the Planning Board
- d. Maintenance, repair of any existing structure provided there is no increase in impervious surface
- e. Normal operation and maintenance of existing water bodies and dams, splash boards and other water controls supply and conservation devices
- f. Farming, gardening, nursery, forestry, harvesting, and grazing provided that fertilizers herbicides, pesticides, manure, and other leachables are used appropriately and are not stored outdoors.

(F) Administration and Enforcement: Applicants for conditional cases should follow normal Planning Board procedures. The Planning Board shall seek input from the Conservation Commission and from the Superintendent of the Water Department for applications in the Aquifer Protection Overlay District.

(G) Non Conforming Uses: Notwithstanding Section 1.04(A), non-conforming uses shall be allowed to continue in the form in which they exist at the time of the adoption of this ordinance unless

- a. It is determined to be a public nuisance
- b. It is an imminent hazard to public health
- c. It presents a long-term threat to the quality of the ground water and therefore the quality of the water which can be supplied to the town.
- d. No non-conforming use may be expanded, changed to another non-conforming use or renewed after it has been discontinued for a period of twelve months or more. (adopted March 1990)

4.02 WATERSHED PROTECTION OVERLAY DISTRICT

(A) Location. The Watershed Protection Overlay District, for the purposes of this Ordinance, shall apply to all land within the municipal boundaries of the Town of Farmington.

(B) Watershed Protection Overlay District Performance Standards. In addition to the other requirements of this Ordinance, any use of land or development activity within the Cocheco River Watershed that is subject to Site Plan Review by the Planning Board, shall conform to the following standards:

- (1) The area of the site stripped of existing vegetation at any time shall be minimized. Stripping of the site

shall be phased where practical so that areas are revegetated and permanently stabilized before additional areas are stripped of existing vegetation.

(2) Not more than thirty-five percent (35%) of the total vegetated area of a lot may be covered by impervious surfaces, including buildings, structures, and paved or gravel surfaces unless the owner of the parcel demonstrates that such development will be carried out in accordance with Best Management Practices.

(3) Any area of disturbed ground resulting from construction or similar activities shall be either temporarily or permanently stabilized by use of riprap, seed, mulch, or other ground cover within one (1) week from the time it was actively worked.

(4) Vegetated buffer strips at least twenty-five (25) feet wide shall be maintained adjacent to waterways, drainage ditches and swales. Waterways, ditches and swales must be re-vegetated prior to September 15th.

(5) Stormwater collection systems shall be designed to use overland flow into vegetated buffer strips whenever possible. When enclosed storm drainage systems are used, provisions for managing nutrient export shall be incorporated consistent with Best Management Practices.

(6) Silt fencing and hay bale barriers in accordance with Best Management Practices for erosion and sedimentation control standards shall be used during all phases of construction.

(7) The Planning Board may require an analysis of nutrient export levels and incorporate nutrient loading control devices such as sedimentation/retention ponds, infiltration systems, wet ponds, swales, or flow strips, if necessary to reduce the level of nutrient export to acceptable levels. This analysis shall be carried out in accordance with Best Management Practices.

4.03 **WETLANDS CONSERVATION OVERLAY DISTRICT.** This ordinance shall be known as the "Wetlands Conservation Overlay District of the Town of Farmington, N.H." (Adopted March 10, 1992). By the authority granted in N.H. **RSA 674:16-17** and **RSA 674:20-21**, and in the interest of public health, safety and general welfare, the Farmington Wetlands Conservation Overlay District is hereby established to regulate the uses of lands subject to standing water, flooding or high water tables for extended periods of time.

(A) **Purpose and Intent.** The purpose of this article is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which are subject to standing water, flooding or high water tables for extended periods of time. The intent of this article is:

- To prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and groundwater by sewage, sediment and/or noxious substances;
- To prevent the destruction of, or significant changes to natural wetlands which provide flood protection;
- To protect rare, unique and unusual natural communities and species, both flora and fauna;
- To protect wildlife habitats and maintain ecological balances;
- To protect existing and potential water supplies and aquifers (water bearing strata) and aquifer recharge areas;

- To prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands; and
- To protect the wetlands, watercourses, water bodies of the Town from degradation and help maintain their natural functions and beauty.

(B) **Location.** The Wetlands Conservation Overlay district is defined as those areas of the Town of Farmington which meet the definition of wetlands as defined in **Section 1.01**. In all cases, the precise location of wetland areas shall be determined by the actual character of the land and the distribution of wetland indicators. Such determination shall be made by field inspection and testing conducted by a wetland scientist or certified soil scientist.

(C) **Inventory.** The Commission or its designated agent (s) is encouraged to begin an inventory of all wetland areas, as defined by this article, and the creation of an official wetland map of the town. The Commission may amend the inventory and map from time to time as information becomes available relative to more accurate delineation of wetlands within the town.

(D) **Wetlands Incorrectly Delineated.**

(1) If either the applicant or the Board questions the Wetland Conservation Overlay District boundaries established under this article, the applicant shall engage a wetland scientist or certified soil scientist to conduct a field analysis to determine the precise location of the Wetland Conservation District boundaries on the affected properties. The wetland scientist or soil scientist shall submit a report of their findings to the Board and the Conservation Commission including, but not limited to, a revised map of the area in question, a written on-site field inspection report and test boring data if applicable.

(2) Upon receipt of the report, the Board in consultation with the Commission may refer it for review to a wetland scientist or certified soil scientist of its choosing. The applicant shall be responsible for any and all reasonable costs incurred by the Board in connection with this independent review.

(E) **Designation of Significant Wetlands and Buffer Zones**

(1) For purposes of this ordinance all wetlands in Farmington are designated as either Class One, Class Two or Class Three wetlands. Those wetlands designated as Class One or Class Two wetlands, based on an evaluation of the criteria and review standards specified in **Section 4.03(J)** of this Ordinance, are so significant that they merit protection.

(2) Class one wetlands are those wetlands that in and of themselves, based on an evaluation of the functions listed in Ammann, Alan P. and A.L. Stone, March 1991, Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire, NH DES-WRD-1991-3 are exceptional or irreplaceable in their contribution to New Hampshire's or Farmington's natural heritage and are therefore so significant, either taken alone or in conjunction with other wetlands, that they merit protection under this ordinance.

(3) Class Two Wetlands are those wetlands, other than Class One, which based on an evaluation of the functions in the above cited reference, are found to be so significant, either taken alone or in conjunction with other wetlands, that they merit protection under this ordinance.

(4) Class Three wetlands are those wetlands which have not been determined by the Commission to be so significant that they merit protection under this ordinance because they have not been evaluated or because when last evaluated were determined not to be sufficiently significant to merit protection under this ordinance.

(F) Initial Designations

(1) Class One Wetlands: When designated as provided for in **Article 1.5.1.a.** Any wetland designated as a Prime Wetland under **RSA 482-A** shall be classified as a Class One Wetland.

(2) Class Two Wetlands shall include all wetlands shown on the National Wetlands Inventory Maps for the State of New Hampshire encompassing the Town of Farmington, and all wetlands contiguous to such mapped wetlands unless determined otherwise by the Commission as provided for in Section 4.03(E)(3) except for the following:

(a) Those wetlands subsequently designated as Class one Wetlands; and

(b) The following categories of wetlands shown on the National Wetland Inventory maps:

Riverine Lower Perennial Open Water (R20W)
Riverine Lower Perennial Beach/Bar (R2BB)
Riverine Upper Perennial Open Water (R30W)
Riverine Upper Perennial Beach/Bar (R3BB)
Lacustrine Limnetic Open Water (L10W)
Lacustrine Littoral Open Water (L20W)
Lacustrine Littoral Beach/Bar (L2BB)

Each Class Two Wetland is presumed, until otherwise by the Commission, to serve all of the functions specified in Ammann, Alan P. and A. L. Stone, March 1991, Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire, NHDES-WRD-1991-3. The functions that make a specific wetland significant shall be determined pursuant to Section 4.03(E).

(3) Class Three Wetlands are those wetlands which are not designated as Class One or Two wetlands.

(G) Buffer Zones. The Commission may designate a buffer zone contiguous to any Class One or Class Two wetland, that is no greater than one hundred (100) feet to the boundaries of a Class One wetland and fifty (50) feet to the boundaries of a Class Two wetland.

(H) Subsequent Designations. The Commission on its own motion, or acting on petitions in accordance with Section 4.03(K), shall:

- (1) determine whether to reclassify any wetland to a higher or lower classification.
- (2) determine which functions make any wetland significant.
- (3) determine whether the size or configuration of a buffer zone adjacent to a significant wetland should be increased or decreased.
- (4) wetlands classified as Prime Wetlands in accordance with **RSA 482-A** shall be reclassified as Class One wetlands.

(I) **Permitted Uses.** The following uses shall be permitted in wetlands using best management practices to protect wetlands provided such uses are otherwise permitted by the Ordinance. In no case, other than provided for in **1.6.1.h.**, shall the use include: (1) the erection or construction of any structures or buildings; or (2) the alteration of the natural surface configuration of wetlands by the addition of fill or by dredging.

- Forestry/tree farming limited to the removal of not more than 50% of the basal area of the standing timber in any ten (10) year period, leaving a well-distributed stand of healthy, growing trees.
- Grazing, Farming, Nurseries and Cultivation and Harvesting of crops using recognized soil conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation;
- Wildlife Refuges;
- Outdoor and parks and recreation purposes, being low intensity uses, not involving structures, alteration of the terrain, or wheeled vehicles;
- Education, scientific research, conservation areas and nature trails;
- Open space as required by the subdivision regulations or the zoning ordinance;
- Uses incidental to the enjoyment or maintenance of residential property. Such incidental uses shall include maintenance of existing structures and existing landscape, but shall not include removal, deposition of material from or into a wetland or draining a wetland without first being granted a Special Use Permit per Section 4.03(J) of this ordinance.
- The construction of single-family dwellings and accessory uses (i.e., driveways, garages, etc.) excluding septic disposal systems on pre-existing lots of record as of the effective date of this ordinance (March 10, 1992) except where the Commission has recommended denial of the related Wetlands Board application under **RSA 482-A** and the New Hampshire Wetlands Board, Code of Administrative Rules. Where denial has been recommended, a Special Use Permit under Section 4.03(J) may be applied for.
- The emergency repair of utility poles and lines or the maintenance, reconstruction or routine repair of structures and facilities (including, but not limited to, public transportation facilities, bulkheads, docks, piers, pilings, paved areas, houses or other buildings) in existence as of March 10, 1992 or additions to such structures or facilities which does not involve substantial expansion or modification.
- No person shall conduct or maintain other uses without first obtaining a Special Use Permit as described in Section 4.03(J).

(J) **Special Use Permits.** A Special Use Permit shall be granted by the Board, after public notice and hearing, for undertaking the following uses in the Wetlands Conservation District. The application shall be referred to the Conservation Commission, Code Officer and Health Officer, for review and comment at least thirty (30) days prior to the public hearing.

- Streets, roads and other access ways and utility rights-of-way easements, including power lines and pipe lines, docks, piers and other water related structures; if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands.
- Water impoundments for the purposes of creating a water body or wetland for wildlife, fire safety, on-site detention of surface runoff and/or recreational uses.
- The undertaking of a use not otherwise permitted in the Wetlands Conservation Overlay District, if it can be shown that such proposed use is in accordance with all of the purposes and intentions of the Farmington Zoning Ordinance.
- The Board shall regulate any operation within or use of a wetland involving removal or deposition of

material, drainage, or any obstruction, construction, alteration or pollution of such wetlands unless such operation or use is permitted pursuant to Section 4.03(E).

- Any person, natural or otherwise, found to be conducting or maintaining an activity without the prior authorization of the Board, or violating any other provision of this article, shall be subject to the enforcement proceedings and penalties prescribed in Section 4.03(K) and any other remedies provided under the law.
- A Special Use Permit shall be valid for a period of two (2) years from the date of issue and shall expire if the use is not implemented and completed by that time, unless an extension is specified and approved by the Board in conjunction with the Commission.

(K) **Petitions.** The Board, in concert with the Conservation Commission, upon receipt of a petition from an affected land owner, fifteen (15) or more persons in interest, an organization with fifteen (15) or more persons in interest, or on its own motion, shall:

- Determine whether to reclassify any wetland to a higher or lower classification.
- Determine which functions make any wetland significant.
- Determination whether the size or configuration of a buffer strip associated with a significant wetland should be modified.
- Content of Petitions: Any petition shall be in writing and must contain the following information unless waived by the Board.
- A description of the specific location of the subject wetland or buffer zone and the location of a USGS topographic map.
- A description of the specific action (s) sought by the petitioner.
- A detailed narrative of why the petitioner believes the action (s) sought is consistent with this Ordinance including a discussion of each wetland function at issue.
- Copies of all documents which the petitioner intends to rely upon in support of the petition.
- The names and complete mailing addresses of all persons owning property within or adjacent to the wetland or buffer strip in question.
- Such other information as the Board may require.

(L) **Considerations for Decisions.** The Board shall consider the following making its decision on an application or petition:

- The application or petition and its supporting documentation;
- Public comments, evidence and testimony from a public hearing;
- Reports from the Commission, Health Officer and the Code Officer.
- The Board may also consider comments on any application or petition from the Strafford County Soil Conservation District, Strafford Regional Planning Commission, New Hampshire Wetlands Board, US Army Corps of Engineers or other technical agencies or organizations which may undertake additional studies or investigations.
- Non-receipt of reports listed herein within the prescribed time frame shall neither delay nor prejudice the decision of the Board.

(1) **Standards and Criteria for Decision.** The Board shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:

(a) The environmental impact of the proposed action, including: (1) the effects on the wetlands capacity to support fish and wildlife, (2) the prevention of flooding, (3) the supply and protection of ground waters, (4) the control of sediment, (5) the facilitation of drainage, (6) the control of pollution, (7) the support of recreational activities, (8) the promotion of public health and safety.

(b) The character and degree of injury to, or interference with safety, health or the reasonable use of property, including down stream property, which would be caused or threatened by the proposed activity, or the creation of conditions which may do so. This includes recognition of potential damage from: (1) erosion, (2) turbidity, (3) siltation, (4) loss of fish and wildlife and their habitat, (5) loss of habitat having demonstrable natural, scientific or educational value, (6) loss or diminution of beneficial aquatic organisms and wetland plants, (7) the dangers of flooding and pollution and (8) the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands to the community.

(2) **Mitigation.** The following measures shall be used to mitigate adverse impacts on protected functions, other than minimal impact, to the extent necessary to achieve no net undue adverse effect:

(a) The proposed activity cannot practically be located on the upland portion of the site in question or on another site owned, controlled or available to satisfy the basic project purpose; and

(b) All practicable measures have been taken to avoid adverse impacts on protected functions; and

(c) The applicant has evaluated each of the protected functions in accordance with the protocols established in Ammann, Alan P. and A. L. Stone, March 1991, Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire, NHDES-WRD-1991-3.

(d) The proposed use has been planned and designed to minimize potential adverse impacts on the protected functions; and

(e) A plan has been developed for the prompt restoration of any of the adverse impacts on protected functions.

(3) **Compensation.** In rare cases it may be possible to reduce adverse impacts on protected functions which cannot be avoided through mitigation by compensating for such impacts so that there is no net undue adverse impact. Such compensation measures may include establishing new wetlands or enlarging the boundaries of an existing wetland to compensate for the adverse impact of a proposed use. Compensation to avoid undue adverse impacts on protected functions of Class One wetlands may only be considered upon the showing that the adverse impacts are necessary in the course of meeting a compelling public need to protect public health or safety. Compensation measures will be allowed in either Class One or Class Two wetlands only to reduce adverse impacts on those protected functions that are compensable.. Compensation may be possible for adverse impacts on the following functions (*):

*water storage for flood water or storm runoff

*nutrient retention or sediment trapping

*wildlife habitat

*open space and aesthetics

Any compensation plan must demonstrate the following:

(a) There will be no net loss of the protected functions or acreage of significant wetlands, and;

- (b) The compensation measures will be full implemented prior to, or concurrently with, the proposed use; and
 - (c) Where practicable, the compensation proposal shall be contiguous to the impacted wetlands; and
 - (d) The compensation measures shall be monitored and managed for a period necessary to insure full replacement of the protected functions in question and any additional period that may be required by subsequent remedial measures but in advent for less than five (5) years; and
 - (e) Shall be designed to be self-sustaining following the period for which monitoring or management is required.
 - (f) Adequate financial surety is provided to carry out the proposed compensation including any necessary remedial measures.
 - (g) The replacement wetland will be permanently preserved by a conservation easement or deed restriction conveyed to a suitable party or by other appropriate means.
- (M) **Administration and Enforcement.** The Board is hereby authorized and empowered to adopt such rules and require such reasonable fees as are necessary for the effective administration of this ordinance.
- (1) Upon receipt of any information in writing that this ordinance is being violated, the Code Enforcement Officer shall notify in writing the owner and tenant of the property on which the violation is alleged to occur with a copy of such notification to the Board and the Commission. Where appropriate, the Board and/or Conservation Commission may notify the New Hampshire Wetlands Board and/or the U.S. Army Corps of Engineers of the violation.
 - (2) A civil penalty not to exceed the statutory maximum may be imposed for each day that such violation is found by the court to continue after the conviction date or after the date on which the violator received written notice from the Town that he is in violation, whichever is earlier.
 - (3) Any penalty awarded by the court for violation of this Article shall be deposited in the Farmington Conservation Fund established under **RSA 36-A:5** after deduction of any fees and costs incurred by the Town that are not otherwise reimbursed. (Adopted March 1992)

4.04 **WATERFRONT PROTECTION OVERLAY DISTRICT.** The Waterfront Protection Overlay District shall consist of two separate and distinct zones of enforced restrictions. The setbacks defined in the following zones are not to be construed to limit any other town, state or federal regulations:

(A) **Controlled Development Zone.** A Controlled Development Zone comprises all areas that lie within two hundred fifty (250) feet of any water body in the Town of Farmington.

(1) **Permitted Uses.** The Controlled Development Zone shall only be restricted by requiring that all development including but not limited to building, tilling, roads and parking, timber harvesting and any other activity that disturbs the natural surface of the land, be conducted with proper erosion control methods that will eliminate unnatural sediments and water velocities from entering a water body. Any activity that unnaturally changes the water flow (both stage and velocity), water temperature, water chemistry or oxygen content shall not be allowed unless a Special Use Permit has been issued as provided herein (See Section 4.04(B)(2)).

(B) **Limited Development Zone.** A Limited Development Zone comprises all areas that lie within one hundred (100) feet of any water body in the Town of Farmington, with the exception of those areas that lie within the Urban Residential District as defined herein, for which the Limited Development Zone shall comprise all areas that lie within fifty (50) feet of a water body.

(1) **Permitted Uses.** Permitted uses in the Limited Development Zone are:

- Forestry - tree farming using Best Management Practices in order to protect streams from damage and prevent sedimentation.
- Agriculture – cultivation and harvesting of crops according to best management practices, including the protection of the waters from degradation caused by sedimentation and erosion, fertilizers, pesticides and herbicides used in such cultivation.
- Wildlife refuges.
- Parks and recreation uses consistent with the purpose and intent of this ordinance.
- Nature trails, conservation and education areas.
- Open spaces.
- Wells.

(2) **Special Use Permit.** A Special Use Permit shall be granted by the Planning Board after public notice and hearing for undertaking the following uses within the Waterfront Protection Overlay District. The application shall be referred to the Conservation Commission, the Code Enforcement Officer and the Health Officer for review and comment at least thirty (30) days prior to the public hearing.

- Streets, roads and other access ways; utility right-of-way easements, including power lines and pipelines; docks, piers and other water related structures, if essential to the productive use of the land not so zoned and if so located and constructed as to minimize any detrimental impact upon wetlands, waterways and water bodies.
- Water impoundments for the purpose of creating a water body or wetlands for wildlife, fire safety, on-site detention of surface runoff and/or recreational uses.
- The undertaking of a use not otherwise permitted in the Waterfront Protection Overlay District if it can be shown that such proposed use is in accordance with all of the purposes and intentions listed in the Farmington Zoning Ordinance.

(a) The Planning Board shall regulate any operation within or use of a wetland, waterway or water body involving removal or deposition of material, drainage or any other obstruction, construction, alteration or pollution of such wetlands, waterways or water bodies unless such operation or use is permitted pursuant to Section 4.04(B)(1).

(b) Any person (natural or otherwise) found to be conducting or maintaining any activity without prior authorization of the Planning Board or violating any other provision of this Section shall be subject to the enforcement proceedings and penalties prescribed in Section 4.04(B)(4) and any other remedies provided under law.

(c) A Special Use Permit shall be valid for a period of two (2) years from the date of issue and shall expire if the use is not implemented and completed by that time, unless an extension is specified and approved

by the Planning Board in conjunction with the Conservation Commission.

(d) Special Use Permits shall not be granted on the Dick Dame Brook and its tributaries from its confluence with the Kicking Horse Brook to the full extent of its headwaters within the Town of Farmington, nor on the Mad River and its tributaries, from its confluence with the Cocheco River to the full extent of its headwaters within the Town of Farmington. Any activity that unnaturally changes the water flow (both stage and velocity), water temperature, water chemistry, oxygen content, or natural river gradients are not allowed in the Dick Dame Brook and Mad River waterways.

(3) **Considerations for Decisions (Special Use Permits).** The Planning Board shall consider in making its decision on an application:

- The application and its supporting documentation;
- Public comments, evidence and testimony from a public hearing;
- Reports from the Conservation Commission, the Health Officer and the Code Enforcement Officer;
- The Planning Board may also consider comments on the application from Strafford County Soil Conservation District, Strafford Regional Planning Commission, New Hampshire Wetlands Board, the U.S. Army Corps of Engineers or any other technical agencies or organizations which may undertake additional studies or investigations;
- Non-receipt of reports listed herein within the prescribed time frame shall neither delay nor prejudice the decision of the Board.

(a) **Standards and Criteria for Decision.** The Planning Board shall consider relevant facts and circumstances in making its decision on any application or permit, including but not limited to the following:

[1] The environmental impact of the proposed action, including: (1) the effects on the capacity to support fish and wildlife, (2) the prevention of flooding, (3) the supply and protection of surface waters, (4) the control of sediment, (5) the facilitation of drainage, (6) the control of pollution, (7) the support of recreational activities, (8) the promotion of public health and safety.

[2] The character and degree of injury to, or interference with safety, health or the reasonable use of property, including downstream property, which would be caused or threatened by the proposed activity or the creation of conditions which may do so. This includes recognition of potential damage from: (1) erosion, (2) turbidity, (3) siltation, (4) loss of fish and wildlife and their habitat, (5) loss of habitat having demonstrable natural, scientific or educational value, (6) loss or diminution of beneficial aquatic organisms and wetland plants, (7) the dangers of flooding and pollution and (8) the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands, waterways and water bodies to the community.

(4) **Administration and Enforcement.**

(1) The Planning Board is hereby authorized and empowered to adopt such rules and require such reasonable fees as are necessary for the effective administration of this ordinance.

(2) Upon receipt of any information in writing that this ordinance is being violated, the Enforcement Officer shall notify in writing the owner and tenant of the property on which the violation is alleged to occur with a copy of such notification to the Planning Board and the Conservation Commission. Where appropriate, the Planning Board and/or Conservation Commission may notify

the New Hampshire Wetlands Board and/or the U.S. Army Corps of Engineers of the violation.

(3) A civil penalty not to exceed the statutory maximum may be imposed for each day that such violation is found by the court to continue after the conviction date or after the date on which the violator received written notice from the Town that he is in violation, whichever is earlier.

(4) Any penalty awarded by the court for violation of this Section shall be deposited in the Farmington Conservation Fund established under RSA 36-A:5 after deduction of any fees and costs incurred by the Town that are not otherwise reimbursed. (Adopted March 1992)

4.05 **FLOODPLAIN PROTECTION OVERLAY DISTRICT**

(A) **Flood Plain Development Performance Standards.** All development within a flood plain shall conform to the Town of Farmington Flood Plain Development Ordinance (adopted September 1988, amended March 8, 1994, amended March 14, 2001).

APPENDIX 1 – LANDSCAPING

(A) **LANDSCAPING.** Whereas an objective of this appendix is to encourage the retention of natural landscape and forests, where that is not possible in the Commercial Center District, the Office-Research Business District, and the Industrial Business District, all new buildings and structures, as well as additions greater than twenty-five percent (25%) of the gross floor area of the existing buildings and structures for which construction is subject to review pursuant to this Ordinance, shall, in addition to site review regulations, satisfy the following landscaping guidelines:

(1) Provide a tree lined streetscaped area abutting the principal right-of-way that shall consist of a mixture of deciduous and/or conifer trees, a minimum of 1" (one inch) in caliper and 2' (two feet) in height, planted at a minimum rate of one (1) tree per thirty (30) linear feet of property frontage adjoining the public right-of-way. For the purposes of this Section, where the site abuts more than one right-of-way, planting may be made to the principal right-of-way or along additional rights-of-way as determined by the Planning Board. **Applicants are strongly encouraged to maintain existing natural vegetation and to supplement that vegetation where necessary pursuant to these guidelines.**

Where the Planning Board finds that application of these guidelines is impractical, it may waive any part of the guidelines with a written determination of the reason for said waiver.

(2) All nonresidential development of land shall provide landscaping for any part of the project area not used for buildings or other structures, parking, loading and access ways consisting of grass, trees and/or shrubs. More specifically, landscaped areas shall be used around the perimeter of the site to screen the proposed use from abutting property. Additionally, landscaping shall be used to break up and screen interior elements of the development to create a more pleasing environment.

(3) The property owner or his or her agent shall be responsible for the maintenance, repair, and replacement of all required landscaping materials. All required plant materials shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris. All required fences and walls shall be maintained in good repair. Removal of required landscaping materials is prohibited unless approved by the Planning Board.

APPENDIX 2 - IMPACT FEES

PURPOSE: This ordinance is enacted pursuant to RSA 674:21, and in order to:

- Promote the public health, safety and welfare and prosperity;
- Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Farmington;
- Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;
- Provide for the harmonious development of the municipality and its environs;
- Ensure the proper arrangement and coordination of streets; and,
- Ensure streets of sufficient width to accommodate existing and prospective traffic.

DEFINITIONS:

Impact Fee means a fee or assessment imposed upon development, including subdivision, building construction or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; municipality's proportional share of capital facilities of a cooperative or regional school district; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including public open space.

Authority To Assess Impact Fees:

- The Planning Board is hereby authorized to assess impact fees, as herein defined, and in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this ordinance.

Assessment Methodology:

- The amount of any impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development and to the benefits accruing to the development from the capital improvements financed by the fee.
- Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

Administration of Impact Fees:

- Each in fact impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet.
- All impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.
- Between the date of assessment and collection, the Planning Board may require developers to post security, in the form of

a cash bond, letter of credit or performance bond so as to guaranty future payment of assessed impact fees.

- Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy; provided however, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the Town may advance the time of collection of the impact fee to the issuance of a building permit.
- The Planning Board and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees.

Return of Impact Fee:

If the full impact fee assessed under this ordinance is not encumbered or otherwise legally bound to be spent for the purpose for which it was collected within six years, the fee shall be refunded to the assessed party, with any accrued interest.

- Whenever the calculation of the impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, a refund shall be made upon the failure of the Town Meeting to appropriate the Town's share of the capital improvement costs within six (6) years from the date of payment thereof.

Applicability:

This ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited to the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II (a).